

THE
SIX BOOKES
OF A COMMON-
WEALE.

Written by I. BODIN
a famous Lawyer, and a man
of great Experience in mat-
ters of State.

*Out of the French and Latine Copies,
done into English, by*

RICHARD KNOLLES.

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TO MY MOST ESPECIALL
good Friend, Sir *Peter Manwood*, Knight
of the Honourable order of the Bath.



I R, gathering matter to continue the liues of the Turkish Emperours, but finding nothing hether-to worthy the writing, more than matters common: such hauing been the policies of latter times, as to keepe secret the reasons and certaine knowledge of the doings of great Estates, that if some of the most wise, mightie, and Honorable, sitting at the helmes of Commonweales, doe not shew the way, posteritie will be defrauded of the most excellent things that many ages haue before brought forth: and yet succeeding times shall bring to light so much as God in his good time seeth best for the good of the Christian Commonwealth. The Sarasin Historie also not to be performed without the light of their owne Chronicles, and the stories of many other countries by them conquered and possessed; a more famous and mightie people, and of longer continuance than the Turkes, and the first planters, spreaders, and maintainers of the Mahometane religion: besides the difficulty of the labour to so weake a body, apace declining, wanting all comfort and helpe but your owne, by the experience of so many yeares spent in the former (and the beginning of this, which you haue long since scene) I doubt (if it please God I liue to performe it) I must write it shortly, as I did the generall Historie to my Liues. In the meane time hauing had some leisure, and loath to bestow good houres euill, I thought good to translate these six bookes of *Bodin* his Commonwealth, vvhich I here commend vnto you. But Sir (my most worthy and onely friend) if beside the diuers formes of Commonweales, and such other worthie matter, as is here by the Author set downe, you wish also to see by what lawes and customes they haue been also gouerned, a thing infinite; I in stead of all referre you vnto the reading of the common law of this Realme, which without all doubt in the auntient puritie thereof, for religious sinceritie, wisdom, power, & equall vpright iustice, excelleth all the laws of men that euer yet were, and a knowledge best be seeming the noble gentrie of this land. To make an end, the vvhole labours of my life haue been and euer shall be comfortable to me, when they may please you, to whom I haue vvholly dedicated my selfe. The Lord in his great mercy euer keepe you and all yours. From Sandwich this 18 day of December, 1605.

Yours euer to be commaunded,
Rich. Knolles.



To the Reader.



Mongst many the great and deepe deuices of worldly wisdom, for the maintenance and preserving of humane societie (the ground and stay of mans earthly blisse) the fairest, firmest, and the best, was the framing and forming of Commonweales; wherein people of all estates, sort, and callings, being comprehended, are by many orderly degrees so united and combined together, as that the great are therein onely honoured, and yet the meanest not neglected, and they in the middest betwixt both, of both according to their places duly respected and regarded: whereof proceedeth the mutuall exchange of all kind and friendly offices, the surest bond of all good and well ordered Commonweales: euery man so finding that which vnto him in priuate belongeth, well vnto himselfe assured, together with the common good, wherein euery priuate mans estate is also comprehended and included. But to find out a good and reasonable meane, whereby such multitudes of people, so farre differing in qualitie, estate, and condition, and so hardly to be gouerned, might yet into one bodie politicke be in such sort united, as that euery one of them should in their degree, together with the common good (as members of one and the selfe-same naturall bodie) haue a present feeling of others good and harmes, was so hard and difficult a matter, as that the first deuisers thereof were accounted more than men, or at leastwise (as indeed they were) of farre more wisdom and discretion than others; the common sort as then and yet also not knowing rightly how to gouerne either themselves or others. Such was Solon amongst the Athenians, Lycurgus amongst the Lacedemonians, Piracus, and many moe in other places; who although by diuers and almost quite contrarie meanes, ayming at one and the selfe-same marke, (viz. the quiet common good) to attaine thereunto, framed diuers and farre different formes and fashions of Commonweales: some of them giuing the Soueraignetie vnto the people in generall, some vnto the Nobilitie alone, and some others (better aduised than the rest) vnto one most royall Monarch; which both by reason and experience being found the best, is not onely of the more ciuile nations, but euen of the most barbarous people of the world (taught as should seeme by the onely and mightie gouernour thereof) in their governments receiued. And now whereas of all other arts and professions, and of whatseuer thing els belonging vnto the necessitie, use, or ornament of the ciuile man in particular, so much is by the great and learned wits of all ages set downe, and by writing to all posteritie commended, as may well content euen curiositie it selfe: yet of this so great, so worthie, and so profitable an argument as is the nature, forme, and essence of all sorts of Estates and Commonweales: (wherein the strength and power not onely of all the most mightie and glorious kingdomes and monarchies that euer yet were, are, or shall bee, but euen the good and welfare of all lawfull humane societie euer also rested, and a knowledge onely proper vnto kings and princes, and such other heroicall minds) so few haue written, as that it may seeme right strange in so many worlds of yeares, scarce one to haue bene found, which seriously and substantially tooke vpon him the handling (I againe say) of this

so

so great, so stately, necessarie, and profitable an argument; whether it were, for that they, whose wealth gaue them leisure to write, did of their owne accord in such sort withdraw themselves from learning, as did the more learned sort themselves from the affaires of State; or els that they which excelled both in the one and the other, viz. wealth and learning both, suffered themselves to be so ouerwhelmed with the weight of their other businesse, as that they had no spare time left them for to meditate, or write any thing at all of this so high and maiestickall an obiect, or els that for the difficultie of the matter it selfe they abstained to meddle therewith. Which vnto the auncient writers seemed so great, as that they which had gained the same, were still accounted the only wise men of the world. Long and many yeares agoe Plato, Xenophon, and Aristotle, and in the memorie of our fathers, Sir Thomas Moore (sometimes Lord Chauncellour of this land) all men of great fame and learning (and besides them not many moe, whose works in the space of 2000 yeares euer came to light) tooke this so noble and weightie an argument in hand; which they yet so passed through (Aristotle onely excepted) as that in their most graue and learned discourses is to be seene a certaine imaginarie forme of a perfect Commonweale, by themselves diuersly fantasied (such as indeed neuer was, either yet euer shall be) rather than any true shape or fashion of such a perfect Estate and Commonweale, as hath indeed been, or yet reasonably may be set downe for an example for others to imitate and conforme themselves vnto. So that according to these great and learned mens high and stately conceits, was neuer yet any Commonweale framed, neither yet any great matter from their so absolute imaginations drawn, for the behoofe and profit of such Estates and Commonweales as haue indeed since been, and wherein we now liue. Which I say not in any thing to impair or diminish the fame and credite of these so renowned and excellent men (whose memoriall liue for euer) but onely that the strong opinion conceiued of the great knowledge of them so graue and learned auncients, and especially in matters of state, wherein they as schoolemen had but little or no experience, might not be altogether preiudiciall vnto the honourable and reasonable endeours of some others of our times, no lesse, yea and happily better acquainted with the studies and affaires of Estates and Commonweales than were they. For if the true value of things bee to be deemed by the necessarie and profitable vse thereof, I see not what should let, but that the six bookes of Io. Bodin de Repub. wherein hee (being himselfe a most famous Ciuillian, and a man much employed in the publicke affaires both of his Prince and Countrey) so orderly and exactly prosecuteth all formes and fashions of Commonweales, with the good and euill, the perfections and imperfections incident into the same, and many other matters and questions most necessarie to be knowne for the maintenance and preservation of them, may well be compared, yea and happily not without cause also preferred before any of them, which haue as yet taken that so great an Argument vpon them. Which bookes by him for the common good of his natie countrey onely, first written in French, (and seuen times printed in three yeares space, a thing not common) at such time as that mightie kingdome began now after the long and bloodie ciuile warres againe to take breath, were by him afterwards for the publicke benefit of the rest of the Christian Kingdomes and Commonweales turned into Latine also: which to doe he was the rather moued, for that (as hee himselfe sayth) at the time of his employment here in England, he certainly vnderstood one Olybius a Frenchman, priuately in noble mens houses in London, and another likewise in the Vniuersitie at Cambridge, with great obscuritie and difficultie there to interpret those his bookes of a Commonweale, then written but in French onely: which was as much as in him lay to make the same common vnto all men, the chiefe scope and drift of him in the whole worke being to make the subiects obedient vnto the magistrates, the magistrates vnto the Princes, and the Princes vnto the lawes of God and Nature. Which his so good and Christian

TO THE READER.

stian an intent and purpose in some part to further, I out of those his French and Latine copies haue into our owne vulgar translated that thou here seest: seeking therein the true sence and meaning of the Author, rather than precisely following the strict rules of a nice Translator, in obseruing the very words of the Author, a thing by me which followed neither the one nor other copie alone, but the true sence of both together, was not possibly to bee performed. And albeit that this the Authors so worthie a worke, euen at the first publishing thereof (and since also) was by some more maliciously than deservedly impugned, as namely by Serre and Ferrier, both Frenchmen, by one Frankberger a Germane, Albergat an Italian, and by Possouinus his pamphlets censured; yea, and that some few points thereof were by some Preachers also in Fraunce with greater zeale than iudgement found fault with: Sufficeth it that Serre after he had with good leaue both written and said what he could, was by the French king his expresse and iust commaund therefore imprisoned, and both the words and scholler-like writings of the rest little or rather nothing at all regarded, the Authors fame euen vnto this day more and more still encreasing, and their writings scarce hearkened after. So that in defence of him, as also of this my Translation, I will vse no other Apologie than that which he yet liuing in few words most mildly vsed, in an Epistle to a friend of his, perswading him not so to put vp the matter: *Satis opinor, meame scripta, & vitæ antea-actæ rationes, ab improborum contumelia vindicabunt*: I suppose (said he) my writings, with the course of my fore-passed life, shall sufficiently defend me from the reproch and slander of enuious and malicious men. And so wishing such as of themselves doe nothing, were no lesse courteous in the amending, than they are curious in the finding out of faults in other mens well meant labors; commending my selfe with these
mine endeouours to thine upright and fauourable censure,
and thee vnto the Almightyes protection,
I in briebe bid thee most heartely farewell.





A SVMMARIE TABLE OF ALL
THE CHAPTERS CONTAINED IN
THE SIX BOOKES OF
I. BODIN.

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FINIS.





THE FIRST BOOKE OF A COMMONWEALE.

CHAP. I.

¶ *What the principall end is of a well ordered Commonweale.*



Commonweale is a lawfull gouernment of many families, and of that which vnto them in common belongeth, with a puissant soueraignie. This definition omitted by them which haue written of a Commonweale, wee haue placed in the first place: for that in all arts and actions, it beho- *The definition of a Commonweale.* ueth vs first to behold the end, and afterward the meanes to attaine therunto: For a definition is nothing else than the very end and scope of the matter propounded, which if it be not well and surely grounded, whatsoeuer you build

thereupon must together and in a moment fall. And yet oftentimes it falleth out with many, that hauing propounded vnto themselues certaine ends, yet can they not attaine vnto the end by them desired; no more than the vnskilfull archer who shooteth farre and wide from the marke he aimed at, whereas he which shooteth markeman-like, although he misse somewhat the marke, yet shall he shoot neerer than he, neither shall he want the commendation of a good archer, hauing performed what a skilfull archer should haue done. But he which knoweth not the end of the matter he hath in hand, is as farre from the hope of attaining thereunto, as he is from hitting the marke, which shooteth at randon, not knowing whereat. Wherefore let vs well examine the end, and euery part of the definition by vs before propounded. First we said that a Commonweale ought to be a lawfull or rightfull gouernment: for that the name of a Commonweale is holy, as also to put a difference betwixt the same, and the great assemblies of robbers and pirats, with whome we ought not to haue any part, commercement, societie, or alliance, but vtter enmitie. And therefore in all wise and well ordered Commonweales, whether question be of the publike faith for the more safetie to bee giuen; of leagues offensiue or defensiu to bee made; of warre to bee denounced, or vnder- taken, either for the defending of the frontiers of the kingdom, or for the composing of the controuersies and differences of Princes amongst themselues; robbers and pirats are still excluded from all the benefit of the law of Armes. For why? Princes which gouerne their States by their owne lawes, and the lawes of nations, haue alwayes diuided their iust and lawfull enemies, from these disordered, which seeke for nothing but the vtter ruine and subuersion of Commonweales, and of all ciuill societie. For which cause, if ranome promised vnto robbers for a mans redemption, bee not vnto them

That a common weale ought to be a lawfull gouernment.

accordingly payed, there is no wrong done: for that the lawes of Armes ought neither to be communicated vnto them, neither are they to enioy the benefit of those lawes, which lawfull enemies being taken prisoners, or free men enioy. Yea the lawes do permit him that is taken of robbers, not thereby to loose his libertie; but that he may neuerthelesse make his will, and do all other lawfull actes: which for all that was not in former time lawfull for them to doe, which were taken by their iust enemies. For that he which was fallen into the hands of his lawfull enemies, by the law of nations did together with his libertie loose also all such power as he had ouer his owne things. Now if a man should say, that the law commaundeth to restore vnto the robber his pawne, his things committed vnto thee vpon trust, or what thou hast of him borrowed; or to repossesse him, beeing by force thrust out of a possession, neuer so vniusly by him obtained; there is thereof a double reason: the one, for that the robber in submitting himselfe vnto the Magistrat, and shewing his obedience vnto the lawes, in demanding iustice, deserueth to be therein regarded: the other, for that this is not so much done in fauour of the theefe or robber, as in hatred of him which would vnconscionably detain the sacred thing left to his trust, or by way of force proceed to the gaining of that which he might by course of justice haue otherwise obtained. Of the first whereof we haue examples enow, but none more memorable than that of *Augustus* the Emperour, who caused it to be proclaimed by the sound of the Trumpet, that he would giue ten *Sesterties* vnto him which should bring vnto him *Coracotas*, the ring leader of the theeues and outlawes in Spaine: which thing *Coracotas* vnderstanding, of his owne accord presented himselfe vnto the Emperour, and demaunded of him the promised reward: which *Augustus* caused to be paid vnto him, and so receiued him into his fauour, to the intent that men should not thinke, that hee would take from him his life, to deceiue him of the reward promised; or yet violate the publike faith and securitie with him, who of himselfe offered himselfe vnto the triall of justice: albeit hee might haue iustly proceeded against the fellow, and so haue executed him. But he that should vse such common right towards pirats & robbers, as is to be vsed against iust enemies, should open a dangerous gap to all vagabonds, to ioyne themselues vnto robbers and theeues; and assure their capitall actions and confederacie, vnder the vaile of justice. Not for that it is impossible to make a good Prince of a robber, or a good King of a rouer: yea, such a pirat there hath beene, who hath better deserued to be called a King, than many of them which haue carried the regall scepters and diadems, who haue no true or probable excuse of the robberies and cruelties which they cause their subiects to endure. As *Demetrius* the pirat by way of reproach said to *Alexander* the great, That he had learned of his father no other occupation than piracie, neither from him receiued any other inheritance than two small frigots: whereas he which blamed him of piracie, roamed about neuerthelesse, and with two great armies robbed the world without controlment, albeit that he had left him by his father the great and flourishing kingdome of Macedon. Which frank speech so moued *Alexander*, not to the reuenge of the iust reproach giuen him, but vnto commiseration, with a certaine remorse of conscience: in so much that he pardoned *Demetrius*, & made him general ouer one of his legions. And not to go further for examples, in our age *Solyman* the great Sultan of the Turks, with great rewards allured vnto him *Hariadenus*, *Enobarbus*, *Dragut Reis*, & *Occhial*, three of the most famous pirats of our memory; whom he made his Admirals, and great commaunders at Sea; by their strength to confirme his owne power, and to keepe vnder the other pirats, then roaming all about the seas, and so to assure his trafficque. Truly by such allurements to draw arch pirats into good order, is, and shal be alwaies commendable: not onely to the end, not to make such people through dispaire

A notable example of fauour, extended vnto an offender, submitting himself vnto his Prince.

Pirats and robbers are not so haue the fauour of iust enemies.

The notable answer of *Demetrius* a pirat, vnto *Alexander* the great.

How arch pirats may in some sort be fauoured.

A to invade the State of other princes, but also by their meanes to ruinate and bring to naught other pirats, as enemies to mankind: who although they seeme to liue in neuer so much amitie and friendship together, and with great equalitie to diuide the spoile, (as it is reported of *Bargulus* and *Vitriatus*, the arch pirats) yet for al that they ought not to be of right called societies and amities, or partnerships; but conspiracies, robberies, & pillages: neither is that their equal parting of the spoile, to be tearmed a lawful diuision, but a meere robberie: for that the principall point wherein consisteth the true marke and cognisance of amitie in them wanteth, that is to wit, right gouernment, according to the lawes of nature. And that is it, for which the auncient writers haue called Common weals, Societies of men assembled to liue well and happily together.

B Which as it may serue for a description of a Citie, so can it not stand for a true definition of a Commonweale, as hauing in the one part thereof too much, and in the other too little: three principall things especially to bee required in euery Commonwealth, wanting in this description, that is to say, the family, the soueraigntie, and those things which are common to a Citie, or commonweale: joyning hereunto also, that this word, Happily, as they vnderstand it, is not necessarie: for otherwise vertue should haue no prize, if the fauourable wind of prosperitie still blew not in the poope thereof, which a good man will neuer consent vnto. For a Commonweale may be right well gouerned, and yet neuerthelessse afflicted with pouertie, forsaken of friends, besieged by enemies, and ouerwhelmed with many calamities: vnto which estate *Cicero* himselte

*The auncient
definition of a
Commonweale
defectiue.*

C confesseth him to haue seene the Commonweale of *Marseils* in Prouince to haue fallen, at such time as it was by *Caius Caesar* triumphed vpon: which he saith to haue bene the best ordered and most accomplished that euer was in the world, without exception. And so contrariwise it should come to passe, that a Citie, or Commonweale, fruitfull by situation, abounding in riches, flourishing, and well stored with people, reuerenced of friends, feared of enemies, inuincible in arms, strong in fortification, proud in buildings, triumphant in glorie, should therefore be rightly gouerned, albeit, that it were furcharged with all villanies, and grounded in all manner of vices. And yet neuerthelessse most certaine it is, that vertue hath not a more capitall enemy, than such a perpetual successe as they cal most happy; which to ioine together with honesty, is no lesse

D difficultie, than to combine things by nature most contrarie. Wherefore sith that we may without reproach want other things; as also without praise abound therein: but that vertues we cannot without great imputation want; or be with vices polluted without infamie: it must needs follow, that those things which are thought to make the life of man more blessed, that is to say, riches, wealth, large territories and possessions, not to be of necessitie required vnto well ordered Cities, and commonweals: so that he which will looke further into the matter, must as little as hee may decline from the best or most perfect state of a Commonweale. For as much as by the goodnes of the end we measure the worth and excellencie, as well of Cities and Commonweals, as of all other things: so that by how much the end of euery Citie or Commonweale is better or more heauen-like, so much is it to be deemed worthily to excell the rest. Yet

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is it not our intent or purpose to figure out the onely imaginary forme and Idea of a Commonweale, without effect, or substance, as haue *Plato*, and Sir *Thomas More* Chauncelor of England, vainely imagined: but so neere as we possibly can precisely to follow the best lawes and rules of the most flourishing cities and Commonweals. In which doing, a man is not bee iustly blamed, although hee fully attaine not vnto the end hee aimeth at, no more than the good Pilot, by force of tempest driuen out of his course; or the skilfull Physitian overcome with the force of the maladie, are the lesse esteemed: provided, that the one hath yet in the cure well

gouerned his sicke patient; and the other in his course, his ship.

The chief felicitie of one citifz, and of a Citie or common weale all one; and wherein it consisteth.

Now if the greatest felicitie and happinesse of one citifzen, and of a whole Citie, be all one and the selfe same, and the chiefe good of both consisteth in those vertues which are proper vnto the mind, and are onely conuertant in contemplation (as they which in wisdom are said to haue farre excelled the rest, haue with great agreement affirmed) it must needs follow also, those citifzens and people to enioy true felicitie, which exercising themselves in the sweet knowledge of things naturall, humane, and diuine, referre all the fruits of their contemplation vnto the almightie God, and great Prince of nature. If we then confesse this to be the principall end of the most blessed and happy life of euery one in particular, we conclude, that this is the felicitie and end also of a Commonweale. But for as much as men of affaires, and Princes, are not in this point agreed, euery man measuring his good by the foot of his pleasures and contentments; and that those which haue had the same opinion of the chiefe felicitie of a man in particular, haue not alwayes agreed, That a good man and a good citifzen are not all one; neither that the felicitie of one man, and of a whole Commonweale are both alike: this hath made that we haue alwaies had varietie of lawes, customs, and decrees, according to the diuers humors and passions of Princes and gouernours. Most men thinking the life of man to be but base, if his endeouours should bee onely directed vnto necessitie, and not also vnto pleasure, and ornament: they would (I say) account it a miserable thing to dwell in poore cottages couered with turse, or in strait cabins and lodges to shrowd themselves from the iniury of the weather. But for as much as the wise man is in a sort the measure of right and wrong, of truth and falshood; or as it were an inflexible rule: and they which are thought to excell all others in iustice and wisdom, with one consent affirme the chiefe good of euery one in particular, and of all in common, to be but one, and the same; we also putting no difference betwixt a good man, and a good citifzen, measure the chiefe felicitie and happinesse of euery particular man, and of all men in general, by that most beautifull and and sweet contemplation of high matters, which we before spoke of. Albeit that *Aristotle* sometimes following the vulgar opinion, seemeth doubtfull in setting downe the chiefe good thing, and not well to agree in opinion with himselfe; as thinking it necessarie vnto vertuous actions to ioine also wealth and power: yet when he reasoneth more subtilly thereof, placing the chiefe good and felicitie of man, in Contemplation. Which seemeth to haue giuen occasion vnto *Marcus Varro* to say, That the felicitie of man consisteth in a mixture of action and contemplation together: whereof this may seeme to haue bene the reason, For that as of one simple thing, the felicitie is simple; so of things double or compound, the felicitie is also double and compound. For the goodnesse of the bodie consisteth in the health, strength, agilitie, comelinesse, and beautie thereof: but the goodnesse of the mind, that is to say, of that facultie or power which is the true bond of the bodie and vnderstanding together, consisteth in the due obedience of our desires vnto reason, that is to say, in the action of morall vertues: whereas the chiefe goodnes and felicitie of the vnderstanding and mind it selfe, consisteth in the intellectuall vertues, that is to say, Wisdom, Knowledge, and true Religion: Wisdom, concerning worldly affairs; Knowledge, concerning the searching out of the secrets of nature; and Religion, the knowledge of things diuine. Of which three vertues, the first seeth the difference betwixt good and euill, the second betwixt truth and falshood, and the third betwixt true holinesse and impietie: and so altogether containe what is to be desired, or to be fled from. In which three vertues, true wisdom consisteth, better than which God hath not giuen any thing vnto man: For that it cannot be taken from vs by theft, consumed by fire, or lost by shipwrack; but is of it selfe sufficient to make men, other-

wife

A wife destitute and bare of all other things, happie; and that not euery one in particular onely, but euen altogether also. Yet for all that shall a citie be much more blessed and fortunate, which encreased by these vertues, shall haue also sufficient territorie, and place capable for the inhabitants; a fertill soyle to plant in, with beasts and cattell sufficient to feed and cloath the people with; and for the maintenance of their health, the sweet disposition of the heauens, temperate and fresh ayre, plentifull and wholesome water, also matter fit for building and fortification, if the countrey of it selfe bee not safe and strong enough against the iniuries both of the weather and the enemy. These are the first beginnings of a growing commonweale, *viz*. That those things be first provided for, without which people can in no wise liue; and then after that, such other things as

B wherewith men liue the more commodiously and better, as medicines to cure diseases, mettals wherewith conuenient tools may be made for workmen, & armes for souldiers, not onely to repulse, but also to take reuenge vpon the enemy and robber. And for as much as the desires of men are insatiable, after that those things are provided for which are necessarie, as also those which are profitable; it lusteth vs also to seeke after, and to abound with vaine delights and pleasures, that so we may more sweetly & pleasantly liue. And as we haue no care of nurturing our children, before that they by conuenient education being growne, become capable both of speech and reason; no more regard haue cities also for the conforming of manners, or searching after the knowledge of naturall and diuine things, before they haue gotten such things as must needs

C be had to feed and defend their citisens; but are with meane wisdom content to repulse their enemies, and defend their people from iniurie. But the man that hath got all things needfull for him to lead a safe and happy life withall, if he be well by nature, and better by education instructed, abhorreth the companie of loose and wicked men, forteth himselfe with the good, and seeketh after their friendship: and afterwards when he feeleth himself cleane & free from those perturbations and passions which trouble and molest the mind; and hath not set his whole hope vpon his vaine pelfe, hee at great ease beholdeth the chaunges and chances of the world, the vnstaidnesse and diuersitie of mens maners, their diuers ages, and conditions; some in the height of power and soueraigntie; others in the bottome of calamitie and woe: he then studiously beholdeth the mutations, risings, and downfals of Commonweals; and wisely ioyneth things forepast, vnto those that are to come. After that, turning himselfe from mens affaires vnto the beautie of nature, he delighteth himselfe in beholding the varietie of natures worke in plants, liuing creatures, and minerals, hee considereth of euery one of them, their forme, their strength, and excellencie: yea he seeth the successiue transmutions of the elements themselues one into another, the singular Antipathie and contagiousnesse of things, the wonderfull order and consent of causes; whereby the things lowest, are ioyned vnto the highest, they in the middle vnto both, and so in briebe all to all: as also whereof euery thing tooke beginning, whether it returneth againe, when and how it shall take end; what in things is mortall and transitory, what immortall and eternall: and so by little and little, as it were with the swift wings of contemplation carried vp into heauen, wondreth at the brightnesse of the notable starres; the power, placing, distance, and vnequall course of the heavenly bodies; and so the good agreement and as it were most sweet harmonie of the whole world, and of euery part thereof: so rauished with a wonderfull pleasure, accompanied with a perpetuall desire to see the causes of all things, he is still caried on, vntill hee bee brought vnto God, the first cause, and gouernour of all this most faire and beautifull worke: whither when hee is once come, he staieth to search further, seeing that he is of an infinite and incomprehensible essence, greatnesse, power, wisdom, and beautie, such as cannot either by

E

Things requisite for the first beginning of a growing commonweale.

A notable discourse of the course that men hold for the attaining of felicitie.

tongue be expresse, or by any mind of man conceiued: yet so much as in him is hee prayseth, extolleth, and with great deuotion honoureth, that so great brightnes of the diuine Maiestie, which by such heauenly contemplation draweth him vnto the true glorie, and chiefe end of all goodnesse. For by these meanes men seeme in a manner to haue obtained the most goodly knowledge of things naturall, ciuill, and diuine, and the very summe of humane felicitie and blisse. F

A small commonweale may yet be happye.

If therefore we iudge such a man wise and happye, as hath not gotten store of common wealth and pelfe, but the knowledge and vnderstanding of most excellent things, and remote from the rude capacitie of the vulgar people: how much more happye ought we to iudge a commonweale, abounding with a multitude of such citisens, although it contented with strait bounds, contemne the proud wealth and pleasures of the greatest cities, which measure their greatest felicitie, by their greatest delights, or by their abundant wealth and store, or by the vanitie of their glory? Neither yet for all that doe we make that chiefe good of a man, or of a common weale, to be a thing confused, or mixt: For albeit that man be composed of a bodie which is fraile and mortall, and of a soule which is eternall and immortall; yet must it needs be confessed the cheiefe goodnesse of man to rest and be in that part which is more excellent than the rest, that is to say, the Mind. For if it be true (as true it is) that this our bodie is compact and framed of flesh and bones, to serue the soule; and our desires to obey reason: who can doubt the chiefe felicitie of man wholly to depend of the most excellent vertue thereof, which men call the action of the mind? For although *Aristotle*, according to the opinion of the Stoicks, had placed the chiefe goodnes of man in the action of vertue; yet he the same man was of opinion, that the same action was still to bee referred vnto the end of contemplation: otherwise (saith hee) the life of man should bee more blessed than that of the Gods, who not troubled with any actions or businesse, enjoy the sweet fruit of eternall contemplation, with a most assured repose and rest. G

Aristotle blamed.

And yet not willing to follow the doctrine of his maister *Plato*, and also accounting it a shame to depart from the opinion by himselfe once received and set downe; for as much as he at the first had put the blessed life in action; he afterward with great ambiguity of words, hath placed the chiefe felicitie of man, in the action of the mind, which is nothing else but contemplation: to the intent he might not seeme to haue put the chief good, both of men and commonweals, in things most contrary vnto themselves; motion (I say) and rest, action and contemplation. And yet hee neuerthelesse seeing men and commonweals to be still subiect vnto motion, and troubled with their necessary affaires, would not plainly put that chiefe good or happinesse which we seeke after, in contemplation onely; which for all that he must of necessitie confesse. For albeit that the actions whereby mans life is maintained, as to eat, to drinke, to sleepe, and such like, are so necessarie, as that a man cannot long want them: yet is no man so simple, as in them to put mans chiefe good or felicitie. The moral vertues also are of much more worth and dignitie than they: for that the mind by them (or by the vertue diuine) purged from all perturbations, and affections, may bee filled with the most sweet fruit and cleare light of contemplation. Whereby it is to be vnderstood, the morall vertues to be referred vnto the intellectuall, as vnto their end. Now that can in no wise be called the chiefe good or happinesse, which is referred vnto a farther thing, better and more excellent than it selfe: as the bodie vnto the soule, appetite vnto reason, motion vnto quiet rest, action vnto contemplation. And therefore I suppose that *Marcus Varro*, who deemed man his chiefe good to bee mixt, of action and contemplation; might (in mine opinion) haue more aptly and better said mans life to haue need of both; yet the chiefe good and felicitie thereof to consist in contemplation: H

which I

A which the Academicks called the sweet, and the Hebrews the pretious death; for that it doth in a sort rauish the mind of man from out of this fraile and vile bodie, and carrieth the same vp into heauen. Yet neuertheles true it is, that a commonweale cannot long stand if it be quite or long time destitute of those ordinary actions which concerne the preservation of the peoples welfare, as the administration and execution of iustice, the providing of victuals, and such other things necessary for the life of man; no more than can a man long liue whose mind is so strongly rauished with the contemplation of high things, that he forgetteth to eate or drinke, and so suffereth the bodie with hunger and thirst to perish, or for lacke of rest to die.

But as in this fabrick of the world (which we may cal the true image of a perfect and most absolute commonweale) the Moone, as the soule of the world, coming neerer vnto the Sunne, seemeth to forsake this perspitall and elementarie region; and yet afterwards by the coniunction of the Sunne, filled with a diuine vertue, wonderfully imparteth the same vnto these inferiour bodies: so also the soule of this little world, by the force of contemplation rauished out of the bodie, and in some sort as it were vnitied vnto the great * Sun of vnderstanding, the life of the whole world, wonderfully lightened with diuine vertue, with that celestiall force maruelously strengtheneth the bodie, with all the naturall powers thereof. Yet if the same, become too carefull of the bodie, or too much drowned in the sensuall pleasures thereof, shall forsake this diuine Sunne; it shall befall it euen as it doth vnto the Moone, which shunning the sight of the Sun, and masked with the the shadow of the earth, looseth her brightnesse and light, by which defect many fowle monsters are engendred, and the whole course of nature troubled: and yet if the Moone should neuer be seperated from the coniunction of the Sunne, it is most certaine, that the whole frame of this elementarie world should in right short time be dissolued and perish. The same iudgement we are to haue of a well ordered commonweale; the chiefe end and felicitie wherof consisteth in the contemplatiue vertues: albeit that publick and politicall actions of lesse worth, be first and the fore-runners of the same, as the prouision of things necessarie for the maintenance and preservation of the state and people; all which for all that we account farre inferiour vnto the morall vertues, as are also they vnto the vertues intellectuall; the end of which, is the diuine contemplation of the fairest and most excellent obiekt that can possibly be thought of or imagined. And therefore we see that Almighty God who with great wisdom disposed all things, but that especially, for that he appointed only six dayes for ys to trauell and to do our businesse in, but the seuenth day he consecrated vnto contemplation and most holy rest, which onely day of all others hee blessed as the holy day of repose and rest, to the intent we should imploy the same in contemplation of his works, in meditation of his law, and giuing of him praises. And thus much concerning the principall end and chiefe good of euery man in particular, as also of all men in generall, and of euery well ordered commonweale: the neerer vnto which end they approach, by so much they are the more happie. For as we see in particular men, many degrees of worldly calamitie or blisse, according to the diuers ends of good or bad that they haue vnto themselues propounded; so haue also commonweales in a sort their degrees of felicitie and miserie, some more, some lesse, according to the diuers ends they haue in their gouernment aimed at.

The Lacedemonians are reported to haue alwayes bene valiant and couragious men; but in the rest of their actions iniust and perfidious, if question once were of the common good: for that their education, their lawes, customs, and manners, had no other scope or end than to make their people couragious to vndertake all dangers, and painfull to endure all manner of labour and toyle; contemning all such pleasures and

A notable comparison.

A man is called the little world.

* G O D.

Gen. cap. 2.
Deut. Exod.
cap. 20.

A fit comparison.

Plato,
Plutarch in the
lines of Lyander,
Agessilaus,
and Lycurgus.

delights, as commonly effeminate the minds of men, and weaken their strength, referring all their thoughts & deeds, to the encreasing of their state. But the Romane commonweale hauing flourished in iustice, farre passed the Lacedemonians; for that the Romans, besides that they were passing couragious, had propounded also vnto themselves true iustice, whereunto, as to a marke they addressed all their actions. Wherefore we must so much as in vs lyeth endeouour our selues to find the meanes to attaine or at least wise to come so neere as we possibly can, vnto that felicitie wee haue before spoken of, and to that definition of a Commonweale by vs before set downe. Wherefore prosecuting euery part of the said definition, let vs first speake of a Familie.

Dionis. Halicarn. li. pri.

CHAP. II.

¶ Of a Familie, and what difference there is betweene a Familie and a Commonweale.

The definition of a familie.



Familie is the right gouernment of many subiects or persons vnder the obedience of one and the same head of the family; and of such things as are vnto them proper. The second part of the definition of a Commonweale by vs set downe, concerneth a Familie, which is the true seminarie and beginning of euery Commonweale, as also a principall member thereof. So that *Aristotle* following *Xenophon*, seemeth to me without any probable cause, to haue diuided the Oeconomicall gouernment from the Politicall, and a Citie from a Familie: which can no other wise be done, than if wee should pull the members from the bodie; or go about to build a Citie without houses. Or by the same reason he should haue set downe by it selfe a treatise of Colleges, and Corporations; which being neither families nor cities, are yet parts of a Commonweal. Whereas we see the Lawyers, and law makers (whome we ought as guides to follow in reasoning of a Commonweale) to haue in the same treatise comprehended the lawes and ordinances of a commonweale, corporations, colleges, and families; howbeit that they haue otherwise taken the Oeconomicall gouernment than did *Aristotle*; who defineth it to be a knowledge for the getting of goods: a thing common vnto corporations and Colleges, as vnto Cities also. Whereas we vnder the name of a Familie, do comprehend the right gouernment of an house or familie; as also the power and authoritie the maister of the house hath ouer his people, and the obedience to him due: things not touched in the treatise of *Aristotle* and *Xenophon*. Wherefore as a familie well and wisely ordered, is the true iniage of a Citie, and the domesticall gouernment, in sort like vnto the soueraigntie in a Commonweale: so also is the manner of the gouernment of an house or familie, the true modell for the gouernment of a Commonweale. And as whilest euery particular member of the bodie doth his dutie, wee liue in good and perfect health; so also where euery family is kept in order, the whole citie shall be well and peaceably gouerned. But if a man shall be crosse and froward vnto his wife, if the wife shall be about to take vpon her the office of her husband, and not shew her selfe obedient vnto him; if both of them shall account of their children as of seruants, and of their seruants as of beasts, and so tyrannise ouer them; if children shall refuse the commands of their parents, and the seruants of their maisters; who seeth not no concord to be in that house, no agreement of minds and wils, but all full of strife, brawling and contention? Seeing therefore the way to order wel a citie, leaneth & resteth in the good gouernment of families, as it were vpon certain proper foundations:

The good gouernment of a familie the true modell for the gouernment of a Common weale.

A rions : it behoueth vs first to haue an especiall regard and care for the good ordering and gouernment of families.

Wee said a Commonweale to bee a lawfull gouernment of many families, and of such things as vnto them in common belongeth, with a puissant soueraignie . By the word, Many, you may not in this case vnderstand two, as for most part we do ; for seeing that the law requireth at the least three persons to make a Colledge , we according to the Lawyers opinion account three persons also, besides the maister of the house, necessary to make a familie; be they children, or slaues, or men enfranchised, or free borne men which haue voluntarily submitted themselues vnto the maister of the house or family, who maketh vp the fourth, and is yet neuerthelesse a member of the family . But
B for as much as Families, Colleges, Companies, Cities, and Commonweals, yea, and mankind it selfe would perish and come to end, were it not by marriages (as by certaine Seminaries, or nurseries) preserued and continued , it followeth well that a family cannot be in all points perfect and accomplished without a wife . So that by this account it commeth to passe, there must be fise persons at least to make vp an whole and entire familie . If therefore there must needs bee three persons, and no fewer , to make a Colledge , and as many to make a familie , beside the maister of the household and his wife ; wee for the same reason say three families and no fewer to bee necessarie for the making of a Citie, or Commonweale, which should be three times fise , for three perfect families . Whereupon (in mine opinion) the auncient writers haue called fiftene
C a people, as saith *Appuleius*, referring the number of fiftene vnto three entire families. For albeit that the maister of the family haue three hundred wiues , as had *Salomon* King of the Hebrews ; and sixe hundred children , as had *Hermotimus* king of the Parthians by his multitude of wiues ; or fise hundred slaues, as had *Craſſus* ; if they bee all vnder the commaund of one and the same head of the familie , they are neither to be called a people nor a citie, but by the name of a family onely : Yea although hee haue many children, or seruants married, hauing themselues children also ; provided alwaies, that they be vnder the authoritie of one head , whome the law calleth father of the family, although he yet crie in his cradle. And for this cause the Hebrews , who alwayes show the proprietie of things by their names, haue called a family אֵילָן, not for that a family containeth a thousand persons, as saith one *Rabbin*, but of the word אֵילָן, which signifieth an head, a Prince, or Lord, naming the familie by the chief therof: better as I suppose than did the Greeks, of *ἄνω*, or the Latines of *Famulus*. But what should let (may some man say) three Colleges, or many other particular assemblies without a familie to make a Citie, or Common weale, if they be gouerned by one soueraigne commaund? Truly it maketh a good show, and yet for all that is it no Commonweale : for that no Colledge, nor bodie politique can long stand without a familie, but must of it selfe perish and come to nought.

No perfect familie without a wife.

How many persons be requisite to make vp an whole and entire familie, and how many families make a Citie.

Iustin. lib. 4.

Now the law saith, that the people neuer dieth, but a thousand yeaere hence to be the same that it was before : although the vse and profit of any thing granted vnto a common weale be after an hundred yeaere extinguished, and againe reunited vnto the proprietie, which proprietie should otherwise be vnto the Lord thereof vaine and vnprofitable : for it is to be presumed, that all they which now liue wil in the course of an hundred yeaeres be dead, albeit that by successiue propagation they be immortal ; no otherwise than *Theseus* his ship, which although it were an hundred times changed , by putting in of new plancks, yet still retained the old name. But as a ship, if the keele (which strongly beareth vp the prow, the poupe, the ribs, and tacklings) be taken away , is no longer a ship, but an euil fauoured houp of wood : euen so a Commonweale without a soueraignie of power , which vniteth in one body all the members and families of the
 same

E

It is not the
greatnes of the
number that maketh the Commonweale, but the
union of the
people vnder
one soueraigne
commaund.

Sometimes one
familie may be
greater than
some Common
weale.
Plut. in Emili.
The greatest &
best peopled ci-
tie no more a co-
mon weale than
the least.

The multitude
of people no hin-
derance to the
vnitie of a com-
mon weale, so
that they be vn-
der one soue-
raigne commaund.

farre is no more a common weale, neither can by any meanes long endure. And not
to depart from our similitude: as a ship may be quite broken vp; or altogether consu-
med with fire; so may also the people be into diuers places disperfed, or els be vtterly
destroyed, the Citie or state yet standing whole; for it is neither the wals, neither the
persons, that maketh the citie, but the vnion of the people vnder the same soueraignie
of government, albeit that there be in all but three families. For as an Emot is as well
to be called a liuing creature, as an Elephant: so the lawfull government of three fami-
lies, with a soueraignie of power maketh as well a common weale, as a great signiorie.
So Rhaguse one of the least signeuries in all Europe, is no lesse a common weale, than
are those of the Turkes, the Tartars, or Spanyards, whose Empires are bounded with
the same bounds that the course of the Sun is. And as a little familie shut vp in a small
cottage, is no lesse to be accounted a familie, than that which dwelleth in the greatest
and richest house in the citie: so a little king is as well a Soueraigne as the greatest Mo-
narch in the world. So *Vlisses*, whose kingdome was contained within the rock of
Ithaca, is of *Homer* as well called a King, as *Agamemnon*: for a great kingdome (as saith
Cassiodorus) is no other thing than a great Commonweale, vnder the government of
one chiefe soueraigne: wherefore if of three families, one of the chiefe of the families
hath soueraigne power ouer the other two, or two of them together ouer the third,
or all three ioyntly and at once exercise power and authoritie ouer the people of the
three families; it shall as well be called a Commonweale, as if it in it selfe comprehen-
ded an infinite multitude of citisens. And by this meanes it may chaunce, that one fa-
milie may sometimes be greater and better peopled than a common weale: as was wel
said of the familie of *Æmilius Tubero*, who was head of a family of sixteene of his owne
children, all married, whome he had all vnder his power, together with their children
and seruants, dwelling in the same house with him. And on the contrary part, the grea-
test Citie or Monarchie, and the best peopled that is vpon the face of the earth, is no
more a common weale or citie, than the least. Albeit that *Aristotle* saith, the citie of
Babylon (whose circuit in a square forme was so great, that it could scarce on foot bee
gone about in three dayes) was to bee called rather a nation, than a common weale,
which ought not, as he saith, to haue more than ten thousand citisens in it at the most:
as if it were any absurditie to call an infinite number of nations, and dwelling in diuers
places, gouerned by one soueraigne commaund, by the name of a Commonweale. By
which meanes the citie of Rome (more famous than which was neuer any) should not
deserue the name of a Commonweale, which at the foundation thereof had not aboue
3000 citisens; but in the time of *Tiberius* the Emperour, had cessed in it fifteene millions,
besides an hundred and ten thousand others disperfed almost throughout the world:
not accounting the slaues, the number of whom was ten times greater: and yet in this
number were not comprised they of the Prouinces subiect vnto the Empire of Rome,
neither the confederat cities, or free nations, who had their Commonweals in soue-
raignie diuided from the Roman Empire. Which soueraignie of government is the
true foundation and hinge whereupon the state of a citie turneth: whereof all the ma-
gistrats, lawes, and ordinances dependeth; and by whose force and power, all colleges,
corporations, families, and citisens are brought as it were into one perfect bodie of a
Commonweale: albeit that all the subjects thereof be enclosed in one little towne, or
in some strait territorie, as the commonweale of *Schwitz*, one of the least of the confe-
derat Cantons of *Suifers*; not so large as many farns of this * kingdom, nor of greater
reuenue: or els that the Commonweale hath many large prouinces and countries, as
had the *Persians*, which * is reported to haue had an hundred twentie seuen prouinces
from the vttermost part of *India*, vnto the sea of *Hellepontus*: or as is now also the
Common-

* France.

* Ester. cap. i

* Herodorus,
Plutar, in Ar-
tax.

A commonweale of the Æthiopians, wherein are fiftie prouinces, which *Pau. Iouius* without reason calleth kingdomes; albeit that they haue not but one king, one kingdome, one Monarch, one Commonweale, vnder the puissant soueraigntie of one and the same Prince whome they call *Negus*.

But beside that soueraigntie of government thus by vs set downe, as the strong foundation of the whole Commonweale; many other things besides are of citifens to be had in common among themselues, as their markets, their churches, their walks, wayes, lawes, decrees, iudgements, voyces, customs, theaters, wals, publick buildings, common pastures, lands, and treasure; and in brieft, rewards, punishments, lutes, and contracts: all which I say are common vnto all the citifens together, or by vse and

Many things common vnto citifens among themselues.

B profit: or publick for euery man to vse, or both together. That is also a great communitie which ariseth of colleges and corporations of companies, as also of benefits both giuen and receiued. For otherwise a Commonweale cannot be so much as imagined, which hath in it nothing at all publick or common. Although it may so be, that the greatest part of their lands be common vnto the citifens in generall, and the least part vnto euery one of them in particular: as by the law of *Romulus*, called *Agraria*, all the lands of Rome, at that time containing eighteene thousand acres, was diuided * into three equall parts, whereof the first part was assigned for the maintaining of the sacrifices; the second for the deftaying of the necessarie charges of the common weale; and the third was equally diuided among the citifens; who being in number but three thousand, had to euerie one of them allotted two acres: which equal partage long time after continued with great indifferencie, for *Cincinnatus* the Dictator himself 260 yeres after had no more but two acres of land, which hee with his owne hands husbanded.

No common-weale where nothing is common

Dionisius Halycarnassens lib. 2.

C But howsoeuer lands may be diuided, it cannot possibly bee, that all things should bee common amongst citifens; which vnto *Plato* seemed so notable a thing, and so much to be wished for, as that in his Commonweale he would haue all mens wiues and children common also: for so he deemed it would come to passe that these two words, Mine and Thine, should neuer more be heard amongst his citifens, being in his opinion the cause of all the discord and euils in a Commonweale. But he vnderstood not that by making all things thus common, a Commonweale must needs perish: for no-

Plato his opinion for the communitie of all things in a commonweale, refused.

D thing can be publike, where nothing is priuat: neither can it be imagined there to bee any thing had in common, if there be nothing to be kept in particular; no more than if al the citifens were kings, they should at al haue no king; neither any harmonie, if the diuersitie and dissimilitude of voyces cunningly mixed together, which maketh the sweet harmony, were al brought vnto one and the same tune. Albeit that such a Commonweale should be also against the law of God and nature, which detest not onely incests, adulteries, and ineuitable murders, if all women should bee common; but also expressly forbids vs to steale, or so much as to desire any thing that another mans is.

Whereby it euidently appeareth this opinion for the communitie of all things to bee erroneous, seeing Commonweals to haue bene so that end founded and appointed by

E God, to giue vnto them that which is common; and vnto euery man in priuat, that which vnto him in priuat belongeth. Besides that also such a communitie of all things is impossible, and incompasible with the right of families: for if in the familie and the citie, that which is proper, and that which is common, that which is publick, and that which is priuat, be confounded; we shall haue neither familie nor yet Commonweale. In so much that *Plato* himselfe (in all other things most excellent) after he had seene the notable inconueniences & absurdities which such a confused communitie of all things drew after it, wisely of himselfe departed from that so absurd an opinion, and easily suffered that Commonweale which he had attributed vnto *Socrates* to be abolished; that

so

so he might more moderately defend his owne. But some will say, that the Massagers had all things in common: yet they which so say, confesse also euery one of them to haue had his pot, his sword vnto himselfe, as also must they needs haue their priuat apparell and garments also; for otherwise the weaker should bee still spoiled of the stronger, hauing his garments still taken from him.

The chief difference betwixt a Familie and a Commonweale.

Wherefore as a Commonweale is a lawfull government of many families, and of those things which vnto them in common belongeth, with a puissant soueraignie: so is a Familie the right government of many subiects or persons, and of such things as are vnto them proper, vnder the rule and commaund of one and the same head of the familie. For in that especially consisteth the difference betwixt a Commonweale and a Familie: for that the maister of a familie hath the government of domesticall things, and so of his whole familie with that which is vnto it proper; albeit that euery house or family be bound to giue something vnto the Commonweale, whether it be by the name of a subsidie, taxe, tribute, or other extraordinarie imposition. And it may bee that all the subiects of a Commonweale may liue together in common, in manner of Colleges, or companies, as did in auncient time the Lacedemonians, where the men apart from their wiues and families, vsed to eat and sleep together by fiftene and twentie in a company: As also in auncient time in Creet, all the citisens of all sorts men and women, young and old, rich and poore, alwaies eat and dranke together; and yet for all that, euery man had his owne proper goods apart, euery one of them still contributing what was thought expedient for the defraying of the common charge. Which thing the Anabaptists in our time began to practise in the towne of Munster, hauing commaunded all things to be * common, excepting their wiues (of whom they might haue many) and their apparell, thinking thereby the better to mainteine mutuall loue and concord among them: in which their account they found themselves farre deceiued. For they which admit this communitie of all things, are so farre from this good agreement of citisens among themselves, which they hope thus to maintaine, as that thereby the mutuall loue betwixt man and wife, the tender care of parents towards their children, and their dutifullnesse againe towards them, and in briebe the mutuall loue of neighbours and kinsmen among themselves, is quite extinguished; all the kind bond of bloud and kindred (than which none stronger can be imagined for the friendship and good agreement of citisens) being by this meanes taken away. For that which thou shouldest dearly loue must be thine owne, and that also all thine: whereas communitie is of the Lawyers iustly called of it selfe, the mother of contention and discord. Neither are they lesse deceiued, which think greater care to bee had of things that bee common, than of things that be priuat; for wee ordinarily see things in common and publick to be of euery man small regarded and neglected, except it be to draw some priuat and particular profit thereout of. Besides that, the nature of loue and friendship is such, that the more common it is, or vnto moe diuided, the lesse force it is of: not vnlike to great riuers, which carry great vessels, but being diuided into small branches, serueth neither so keep back the enemie, neither for burthen: in which maner loue also diuided vnto many persons or things, looseth his force and vertue. So the lawfull and certaine government of a familie, diuideth euery priuat mans wiues and children, seruants and goods, from all other mens families; as also that which is vnto euery particular man proper, from that which is to them all common in generall, that is to say, from a Commonweale. And withall in euery well governed Commonweale we see the publick magistrat to haue a certaine especiall care and regard of the priuat goods of orphans, of mad men, and of the prodigall: for that it concerneth the Commonweale to haue their goods preserued vnto them to whome they belong, and that they be not embeseled.

* Sleidan.

Things common small regarded

A embeſeled. As in like caſe the lawes oftentimes forbiddeth a man to procure, to alienat, or to pawne his own goods or things, except vpon certain conditions, as alſo vnto certaine perſons; for that the preſeruatiſon of euery priuat mans goods in particular, is the preſeruatiſon of the Commonweale in generall. And yet neuertheleſſe although lawes be common to al, it is not inconuenient, but that families may haue their certaine particular ſtatutes for themſelues and their ſucceſſors, made by the auntient heads of their families, and confirmed vnto them by their ſoueraigne Princes. As we haue example in the moſt honourable nation of the Saxons, amongſt whome are many families, which vſe certaine their owne priuat lawes, quite differing both from the lawes of the Empire, and from the common lawes and cuſtoms of Saxonie. And betwixt the dukes of Bauaria, and the Counties Palatines there are alſo their particular lawes, as well for the lawfull ſucceſſion in the inheritance of their houſes, as in the right of the Electorſhip, which is in theſe two honourable houſes, alternatiue, by the auntient decrees of their predeceſſors: which laws & cuſtoms the duke of Bauaria, with great inſtance required to haue renewed at the diet of the Empire at Aufſpurge, in the yere 1555 which is not ſo in the other families of the Electors. Betwixt the houſes alſo of Saxonie and Heſs, are their domeſticall and proper laws * confirmed vnto them by the Emperour Charles the fourth, and Sigismund. In like maner it was decreed betwixt the houſes of Austria, and Bohemia, that for lack of heirs male, the one of them ſhould ſucceed into the inheritance of the other, as we ſee it is now come to paſſe. And not to go further than this * Realme, I haue ſeene a charter of the houſe of Laual granted by the King, and confirmed by the Parliament of Paris, directly contrarie to the cuſtomes of Aniou, Britagne, and Mayne, wherein the moſt part of their inheritance lie: by which Charter the firſt inheritor (able to ſucceed) is to enioy all, being not bound to giue any thing vnto his coheirs, more than the moueables; with charge, that the heire male ſhall beare the name of *Guy de Laual*; or of *Guionne*, if ſhe bee an inheritrix, and the armes plaine. In like maner in the houſes of Baume, Albret, and Rhodéz, the daughters by the auntient lawes of their auncſtors, were excluded both in direct and collaterall line from inheriting; ſo long as there were any males in what degree ſoeuer; deriuing as it were into their families, the law Salique, vſual vnto the Princes of Sauoy. Such lawes of families, which the Latines had alſo, and called them *Ius familiare*, were made by their auncſtors and chiefe of their families, for the mutuall preſeruatiſon of their inheritance, name, and auntient armes; which may in ſome ſort well be ſuffered in ſome great and honourable families: which priuat lawes and cuſtoms by vs thus ſpoken of, haue oftentimes preſerued from deſtruction, not onely families, but whole commonweals; which was the cauſe that in the diet at Aufſpurge in the yere 1555, the Princes of the Empire after long ciuill warre, wiſely renewed the auntient lawes of great houſes and families, as hauing well perceiued that by that meane the Empire was to be preſerued from ruine, and the ſtate of Almaine from a generall deſtruction. Which for all that, is not to take place in other obſcure and particular baſe families, to the intent that the publick lawes, ſo much as is poſſible, ſhould be vnto all men common and the ſelfe ſame. For it is not without great cauſe to bee ſuffered, that the lawes of priuat families ſhould derogate from the cuſtomes of the countrey, and ſo, much leſſe from the generall lawes and ordinances. Neither are they which come after, by this law of families by their grand-fathers, & great grand-fathers made, contrarie to the common cuſtoms and lawes, further bound than they themſelues ſhall thereunto giue their conſent. For which cauſe the ſucceſſors of the houſe of Albret, of Laual, and of Montmorency obtained decrees from the Parliament of Paris, contrarie to the auntient charters of their predeceſſors; for that they were contrary vnto the cuſtomes of thoſe places, when

Particular families may haue alſo their particular lawes: and how.

* Anno 1370. and 1431.

* France.

The great benefit which oftentimes cometh vnto a Commonwealth, by certain priuat lawes and cuſtoms granted vnto ſome great and honourable houſes & families.

question was of the successions of Laual, of the Countie of Dreux, and of Montmourencey, which they would make indiuifible, contrarie to the custom of the Viscomptie of Paris: For it befeemeth that the customes of families should bee subiect vnto the lawes, in like maner as the heads of families are subiect vnto their foueraigne Princes. Much lesse are the lawes of families and kindreds, allowed by the decrees of the Romans, to be suffered, least for the priuat the publick should be neglected: as *Camil-^Flus* complained with *Linie*, * What (saith he) if the sacred rites of families may not in time of warre be intermitted, pleaseth it you that the publick sacrifices and Roman gods should euen in time of peace be forsaken? For it was a law of the twelue tables conceived in these words, *Sacred priuat Rites, firme be they for euer*: which *M. Tul-^Glius* translated into his lawes. And thus much in generall, concerning the similitude and difference of a Common weale and Familie: now let vs discourse also of the singular parts of a Familie.

CHAP. III.

¶ *Of the power of an Husband ouer his wife, as also of the mutuall duties betwixt them: and whether it be expedient to renew the law of diuorcement or not.*



ALL assemblies of men lawfully ioyned together, whether they be Families, Colledges, Vniuersities, or Commonweals, are kept together and preserued by the mutuall duties of commanding and obeying: for as much as that libertie which nature hath giuen vnto euery one to liue at his owne pleasure, bound within no lawes, is yet subiect vnto the rule and power of some other. All which power to commaund ouer others, is either publick or priuat: The power publick, is either free from law, as is theirs which hold the chiefe place of foueraignie; or els restrained by law, as is the power of the Magistrats, who although they commaund ouer priuat men, are yet themselues subiect vnto the commaunds and laws of others their superiours. The power priuat, consisteth either in the heads of families, or in corporations, or colledges, where all by a generall consent, or the greater part, commaundeth ouer the rest. But the domesticall power is of foure sorts: *viç.* The power of the Husband ouer his Wife, the power of the Father ouer his children, the power of the Lord ouer his slaues, and the power of the head of a Familie ouer his mercenarie seruants. And for as much as the right and lawfull gouernment of euerie Commonweale, Corporation, Colledge, Societie, and Familie dependeth of the due knowledge of commanding and obeying; let vs now speake of euery part of commanding in such order as is by vs before set downe. For naturall libertie is such, as for a man next vnto God not to be subiect to any man liuing, neither to suffer the commaund of any other than of himselfe; that is to say, of Reason, which is alwaies conformable vnto the will of God. This naturall commaundment of Reason ouer our affections and desires, is the first, the greatest and most antient that is: for before that one can well commaund ouer others, hee must first learne to commaund himselfe, giuing vnto Reason the foueraignie of commaund; and vnto his affections obedience: so shall it come to passe that euerie one shall haue that which of right vnto him belongeth, which is the first and fairest iustice that is; and that whereof the common Hebrew prouerb grew, That euery mans charitie should first begin of himselfe: which is no other thing than to keepe our affections obedient vnto Reason. This is the first law of naturall commaund, which God by his expresse commaundment * established, as we see in the speech which God had both vnto her that was the first

The diuision of power and commaund.

Domesticall power of foure sorts.

The first & greatest commaund is the commaund of Reason ouer our affections, & so ouer our selues.

* Gen. cap. 2.

- A first * mother of vs all ; as also against him who first defiled himself with his brothers * bloud *. For that commaund which he had before giuen the Husband and his Wife, is two wayes to be vnderstood ; first literally for the power the Husband hath ouer his Wife, and then morally for the commaund the soule hath ouer the bodie, and reason ouer affection. For that reasonable part of vnderstanding, is in man as the Husband ; and Affection, as the Woman : For before God had created *Eua*, it was said of *Adam*, Male and female created he them *. Wherefore the woman in holy writ is oftentimes taken for affection : but neuer more than with *Salomon*, who so liued as a man vnto women most kind ; but so writ, as if he had bene vnto them a sworne enemy, whereas he thought nothing lesse, all that his speech being to bee vnderstood of mans vnreasonable desires, as well declareth the wise and graue *Rabbin Maymon* *. But leaue we the morall discourse vnto Philosophers and Diuines to dispute of, and let vs take that which belongeth vnto ciuill policie, and speake of the power the Husband hath ouer the Wife, as proper vnto this our question. By the name of a Wife I vnderstand a iust and lawfull Wife, and not concubine, which is not in the power of him that keepeth her ; albeit that the Roman lawes call it mariage, and not concubinage, if the concubine be franke and free : which all nations haue of good right reiected, and as it were by secret consent abrogated, as a thing dishonest and of euill example. Neither doth this power that the Husband hath ouer his Wife extend vnto her that is but betrothed, vpon whome the betrothed man may not lay his hand ; which hath euer bene lawful vnto the Husband, both by the Ciuil and Canon law : yea if the betrothed man shall lay violent hand, or force her that is to him affianced or betrothed, he shall therefore by right suffer capitall punishment. But what if by consent of the man and of the woman, contract of mariage be made by words of the present time, before they know one another ; for that, the law calleth iust marriage : I am for all that of opinion the power of an Husband not to be yet gotten by such a contract, except the Wife haue followed her Husband : for as much as by the decrees of the Diuines and Canonists (whose authoritie is in this matter the greatest) as often as question is made of the right of mariages, scarce any regard is had of such mariages betwixt man and wife, except it be of fact consumat, by the mutuall coniunction of their bodies ; which by the consent of many nations is expressly receiued, as often as question is made of enioying of such commodities as are to be gained by mariage. But after that lawful coniunction of man and wife (which we haue spoken of) the Wife is in the power of her Husband, except he be a slaue, or the sonne of the maister of the Familie, who haue no authoritie ouer their wiues, & much lesse ouer their children ; which although their married father were manumised, should yet fall into the power of their grandfather. The reason whereof is, for that a Familie should haue but one head, one maister, and one Lord : whereas otherwise if it should haue many heads, their commaunds would be contrarie, one forbidding what another commaunderth, to the continuall disturbance of the whole familie. And therefore the woman by condition free, marrying her selfe vnto the maister of the families sonne, is in the power of her father in law, as is also the free man marrying himselfe vnto the maister of the families daughter, in the power of another man if he go to dwell in the house of his Father in law : albeit that in all other things he enioy his right and libertie. Neither seemeth it a thing reasonable, that is by the Roman lawes ordained, That the married daughter, except she be before by her Father set at libertie, although she haue forsaken his house and dwell with her Husband, shall not yet for all that be in the power of her Husband, but of her father : A thing contrary vnto the law of nature, which willeth, That euery man shuld be maister of his owne house, (as saith *Homer*) to the end that he may be a law vnto his familie : and re-

* Gen. cap. 3

* Gen. cap. 4

* Gen. cap. 1.

* Rabbi Maymon. lib. 1. de more.

A man hath no power ouer his Concubine, or her that is but vnto him betrothed.

How the Husband sometimes hath not of right power ouer his Wife, and why.

* Numeri. 3.

The wife by all
the lawes of God
and man bound
to obey her hus-
band.

For as elsewhere
in a man by Ro-
mulus his law
had power of life
and death ouer
his wife.

* Tacitus lib. 2.

* Liui. lib. 33.

pugnant also vnto the law of God, which commaundeth the Wife to forsake fa-
ther and mother to follow her Husband; and also giueth power vnto the Husband to
confirm or breake the vowes of his Wife. Wherefore that law of the Romans is
worthily abrogated, and especially with vs: for that the custome generally exempteth
the married woman out of the power of her father; as was likewise in the Lacedemo-
nian Commonweale, as *Plutarch* writeth, where the married woman saith thus;
When I was a daughter I did the commaund of my father, but since that I am marri-
ed, it is my Husband to whome I owe mine obeyfance: for otherwise the wife might
tread vnder foot the commaundement of her Husband, and acquit her selfe when shee
saw good vnder the guard of her father. Now the interpretors of this Roman law
haue vsed many cautions to auoid the absurdities and inconueniences following, if the
wife should not be subiect to her husband, vntill she were set at libertie by her father.
Yet in that point the lawes of all people agree with the lawes of God and nature, That
the wife ought to be obedient vnto her husband, and not to refuse his commaunds nor
repugnant vnto honestie. One Italian Doctor there is of opinion, That the wife is not
in the power of her husband: but for that of his assertion so singular and absurd, hee
hath brought neither reason nor authoritie, there hath bene none so fond to follow
the same. For it is certaine by the law of *Romulus*, that the husband had not onely the
commaund of his wife, but also power of life and death ouer her, in foure cases, without
any forme of iudiciall proceesse against her: that is to wit, for Adulterie, for suborning
of a child, for counterfeiting of false keyes, and for drinking of wine. Howbeit the ri-
gor of those lawes were by the kindnesse of husbands by little and little moderated, and
the punishment of adulterie committed to the discretion of the parents of the wife:
which began to be renewed & again put in practise in the time of *Tiberius* the Empe-
rour; for that the husband putting away his wife for adulterie, or himselfe attainted
with the same crime, the offence remained unpunished, not without the great reproach
of their kindred, who in auncient time (after the manner of the Romans) punished the
adulterous women with death, or with exile. And albeit that the power of the hus-
band ouer his wife was much diminished, yet neuerthelesse by the oration * which
Marcus Cato the Cenfor made vnto the people in defence of the law *Oppia* (which
tooke from women their habilliments of collours, and forbad them to weare aboue
one ounce of gold) it appeareth that the women were al their liues in the gouernment
of their fathers, their brethren, their husbands, & next kinsmen, in such sort, as that with-
out their leaue or authoritie, they could make no contract, or yet doe any lawfull act.
This *Cato* the Cenfor flourished about 550 yeares after the lawes of *Romulus*: and
200 yeares after, *Vlpian* the Lawyer writeth, That Tutors and Gouverners were wont to
be giuen to women and orphans; but when they were married, that then they were in
the hand of the man, that is to say in the power of the husband. And if any should say
That he diuided the title of persons that are in the power of others, from them that are
in the power of others; it followeth not thereof that wiues were in the power of their
husbands, but was by him so done, to show the difference of power the husband hath
ouer his wife, the father ouer his children, and the lord ouer his slaues. And what
doubt is there but that this word *Hand*, signifieth oftentimes power and authoritie? the
Hebrews, Greeks, & Latines, hauing alwaies so vsed it, as when they say, The hand of
the King; and, To come into the hand of the enemy. And *Festus Pompeius*, speaking of
the husband bringing home his wife, vseth the word *Mancipare*, a word proper vnto
slaues: which word we yet vse in many our customes and lawes, where question is of
the emancipating of women. But to make it plaine, this power of husbands ouer their
wiues to haue bene common vnto all people, we will by two or three examples de-
clare

- A clare the same. *Olorus* King of Thracia compelled the Dacians overcome by their enemies, to serue their wiues, in token of extreame seruitude, & of the greatest reproach that he could deuise to doe them. We read also that by the lawes of the Lombards the woman was in the same subiection that the auntient Romans were, and that the husbands had all power of life and death ouer their wiues, which they yet vsed in the time of *Baldus*, not yet 260. ycares ago. And not to seeke farther, what people had euer so great power ouer their wiues as had our auncestors? The French men (saith * *Cæsar*) haue power of life and death ouer their wiues and children, in like manner as ouer their slaues: and beeing neuer so little suspected to haue wrought their husbands death, are to be tortured by their owne kinsmen, and being found guiltie are by them to be cruelly executed, without any further authoritie from the Magistrat. But for drinking of wine it was much more manifest that it was cause sufficient by the Roman lawes for the husband to put his wife to death; wherein all the * auntient writers agree; which was not only the custome of the Romans, but also (as *Theophrastus* writeth) of the auntient inhabitants of Marseilles in Prouince, and the Milesians, who vsed the same law against their wiues that had drunke wine; iudging that the disordered desires of the woman subiect to wine, would also make her drunke, and so afterwards an aduresser. We also find that the power giuen vnto the husband by the law of *Romulus*, To put his wife to death for adulterie, without the authoritie of the Magistrat, was common to all Greece, as well as to the Romans. For the law of *Julia* which gaue leaue onely vnto the father to kill his daughter together with the adulterer, being taken in the deed doing, and not otherwise, was made by *Augustus* the Emperour about seuen hundred ycares after the law of *Romulus*: And yet by the same law it was permitted vnto certaine persons to do the same that the father might, against their adulterous wiues: a right small punishment being appointed for the husband, who besides the persons in the law excepted, had killed the adulterous taken in the fact. But the publick punishment of adulterie derogateth nothing from the power of the husband, in other sorts of corrections ouer his wife, not extending vnto death, which is vnto husbands forbidden. After that *Theodora* the Empreesse hauing got the maisterie ouer *Iustinian* the Emperour her husband, a blockish and vlearned Prince, when she had made al the lawes she could for the aduantage of women against their husbands; she amongst others also changed the paine of death for adulterie, into the note of infamie: as did also in auntient time the Athenians, excommunicating the adulterors, with the note also of infamie, as we read in the Pleas of *Demosthenes*: which seemeth but a thing ridiculous, considering that the note of infamie cannot take any honour from her which hath already lost the same, and is altogether defamed: so that vpon the matter shee remaineth altogether vnpunished, & that for such a crime as the law of God * punisheth with the most rigorous death that then was, (that is to say with stoning) and which the auntient *Egyptians* punished at the least with cutting off the nose of the woman, and the mans priuities. But in other crimes which more concerned the husband than the publicke state, and deserued not death, power is by the consent of all men giuen vnto the husband to chastice his wife, so that it be sparingly done, and within measure. And to the end that husbands should not abuse the power the law gaue them ouer their wiues, they had an action against their husbands, in case of euill entreatment, or froward vsage; which was afterward by the law of *Iustinian* taken away, and a penaltie decreed against them that had giuen the cause of the seperation: which were especially grounded vpon adulterie; and poisoning attempted, but not hauing taken effect. Yet notwithstanding the decree of *Iustinian*, it is by our custome permitted vnto the wife wronged or euill entreated by her husband, to require seperation. And yet for all

Iustin. lib 32.

* Lib. 6 Belli Gallici.

That it was lawfull for a man to kill his wife for drinking of wine.

* Dion. Halic. lib. 2. Plin. lib. 14 cap. 13.

Valer. de instir. antiq.

Cicero de nar. lib. 3. & de Repub lib 1. Plin. in Problem.

Rom. cap. 6. Arnob. lib. 2.

aduertus gentes. Tertul in Apolog. cap. 6.

Gellius lib. 10 cap. 23. & Alci-

mus Siculus apud Athenæ-

um.

The punishment of wines for adulterie.

* Leuit. 20. Daniel 12. Deu 24

No action of iniurie to be admitted betwixt a man & his wife, and why. The hatred betwixt man and wife of all others most deadly.

Divorcement by the law of God allowed.

Whether in divorcement it be better to expresse the cause thereof, or els to haue the same concealed.

* In the yeare of Christ 1240.

* Plut. in Alcibi.

* Plut. in Æmili.

that is no action of iniurie to be suffered betwixt the husband and the wife (as some would haue it) and that for the honour and dignitie of marriage; which the law hath had in so great regard, that it permitteth not the husband, or any third man to haue an action of felonie against the wife, although she haue embeseled or purloyned all her husbands moueables. But as no loue is greater than that of marriage, (as saith *Artemidorus*) so is the hatred of all others most deadly, if it once take root betwixt man and wife; as was well declared by *Leo* Embassadour from them of Bizance vnto the Athenians, whome when they in a great assembly had laughed to scorne for his small stature, Why (said he) do you laugh at me a dwarfe, seeing my wife is much lesse than my selfe, and scarce so high as my knee; who pleased, although wee lie in a verie little bed, yet falling out the one with the other, the great Citie of Constantinople is too little for vs two? Which his pleasant speech serued wel to the matter he had in hand, which was to perswade the Athenians vnto peace; which is not easie to doe betwixt the husband and the wife, especially if one of them hath once sought after the life of the other. And for that cause the law of God concerning diuorcement (which was afterwards common to all people, and yet at this present is vsed in *Affrick*, and in all the east) gaue leaue to the husband to put away his wife, if she pleased him not, with charge that he might neuer take her againe, and yet might well marrie another: which was a meane to keepe the insolent wiues in subiection, as also to repress the anger of the wayward husbands; for what woman (except she were an arrant whore) would bee so desirous of a man, as to marry an husband that without any iust or probable cause had put away his wife. Now if it shall secme to any an vnreasonable thing, to bee lawfull for a man to put away his wife, for no other cause but for that hee liketh her not, I will not greatly strue, either therefore depart from the law now with vs in vse. Yet nothing seemeth vnto me more pernicious, than to constrain the parties so in dislike to liue together (except they will) to declare the cause of the diuorcement they desire, & also wel proue the same before the Iudge: For in so doing, the honor of the one or of both the parties is hazarded, which should not so be if neither of them were enforced to proue the cause of the diuorce vnto the Iudge. As did in auncient time the Hebrews, and yet do at this present also, as we see in their *Pandecks*, where is described the lawful act of diuorcement, & the bil of diuorcement which *Rabi Isiel* of Paris gaue vnto his wife the xxix. of Octob. in the yere from the creation of the world * 5018. Another example thereof is also extant in the Epitome of the Hebrew *Pandecks*, collected by the Lawyer *Moyse de Maymon* in Chaldeia, where the Iudge of the place hauing seene the special procuratiō, & the act of him that had put away his wife in the presence of three witnesses, adioyneth thereunto these words, That he did purely and simply diuorce her, and without any cause showing, giuing them both leaue to marry whome they should see good. In which doing the woman was not dishonoured, but might with safe reputation marrie with another sortable to her owne qualitie. And albeit that the Athenians admitted no diuorcement, except the cause were first proued before the Iudges: yet seemed it to all good men to be a thing of great daunger, insomuch that * *Alcibiades* fearing the publick scandall tooke his wife openly complaining before the Iudges, and carried her away home vpon his shoulders. More indifferently delt the auncient Romans, in ioyning no cause at all vnto the bill of diuorcement: as is to be seene when *Paulus Æmilius* put away his wife whome he confessed to be very wise, honest, and nobly descended, and by whom he had also many faire children: but when his wiues friends complaining vnto him, would needs know of him the cause of the diuorce, he showed them his shoo, which was very handsomly and well made; and yet said he, none of you but my selfe feeleth where this shoo wringeth mee. But what if the

A the cause seeme not sufficient vnto the Iudge? or be not well proued? is it therefore meet to enforce the parties to liue together, in that societie which is of all other the straitest, hauing alwaies the one the other the obiekt of their griefs stil before their eies. Truly I am not of that opinion: for seeing themselues brought into extreame seruitude, feare, and perpetuall discord, hereof ensue adulteries, and oftentimes murthers and poysonings, for the most part to men vnknowne; as it was discouered in Rome, before the law of diuorcement (first made by *Spurius Caruilius*, about 500. yeares after the foundation of the citie) a woman being apprehended and conuicted for poysoning her husband, accused other her companions in the fact, who afterward by mutuall accusations appeached seuentie others of the same crime for poysoning their husbands, who were all therefore executed: which how much the more is it to bee feared where diuorcements are altogether forbidden? For both the Greek and the Roman Emperours, willing to take away the often vse and easinesse of diuorcements, and to amend the auncient custome, ordained no other penaltie than the losse of the dowry, or of the other matrimonial conuentions, vnto the partie that shuld be the cause of the diuorce. *Anastasius* also suffered diuorcement, by consent of both parties, to bee made without any penaltie or punishment: which was by *Iustinian* the Emperour, or rather *Theodora* his wife forbidden. Now of that which we haue already said, every man as I suppose, may of himselfe iudge which is most expedient for a Commonweale.

Diuorcement
necessarie.

But what change or varietie of lawes soeuer in such diuersitie of Commonweals, there was neuer law or custome that exempted the wife from the obeysance, and not onely from the obeysance, but also from the reuerence that shee oweth vnto her husband; in such sort that the law permitteth not the wife to sue her husband without the leaue of the Magistrat. But as nothing is greater, better, or more necessarie for the preservation not of Families only, but of Commonweals also, than the honest obedience of wiues towards their husbands, as saith *Euripides*: so beseemeth it not the husband vnder the shadow of this power, to make a slaue of his wife. And wheras *Marcus Varro* is of opinion that slaues ought rather to be corrected with words than with stripes; much more ought the wife to be, whom both God and mans law doth call his housefellow. So *Homer* bringing in *Iupiter* reprobuing his wife *Iuno*, and seeing her rebellions, vseth great threats, but proceedeth vnto no further extremities. And *Cato* commonly reputed to be a sworne enemy vnto women, did neuer beat his wife, reputing that to be as it were a sacrilege; but vsed so to maintaine the power and dignitie of a husband, as that he had his wife alwaies at commaund: which he shal neuer do which of a maister is become her companion, & afterward her seruant, & of a seruant her very slaue. As was of old obiekted vnto the Lacedemonians, who called their wiues their Ladies and Mistresses: which the Romans did also, not the priuat men only, but euen their Emperours themselues, in the declination of their Empire; who at length together with their domesticall gouernment lost also their publick soueraigntie. Albeit that such women as take pleasure in commaunding their effeminat husbands, are like vnto them that had rather to guide the blind, than to follow the wife and cleere sighted.

Wives to be
corrected rather
with words then
with stripes.

Plut. in Laco-
nics,
Arist. lib. 2.
Politic.
Tranquillus in
Claudio.

E Now the law of God, and the holy tongue, which hath named all things according to the true nature and proprietie thereof, calleth the husband *Bahal*, that is to say, Lord and maister, to shew that vnto him belongeth the soueraigntie to commaund. The lawes also of all nations, to abate the pride of women, and to make men know that they ought to excell their wiues in wisdome and vertue, haue ordained that the honor and glorie of the wife should depend of her husband, as of the Sunne: in such sort that if the husband be noble, he enobleth his base wife; but if the wife beeing nobly borne marry a man of base degree, shee loofeth her nobilitie, albeit that of auncient time

The authoritie
and power of the
husband ouer
his wife.

there haue bene many and yet are, which take their nobilitie and gentrie from their mothers, and not from their fathers; as the Lycians, the Delphiens, the Xanthiques, the Ilienſes, and the Capadocians: whether it were for the vncertainie of their fathers, or for that they had loſt all their nobilitie in the warres; as in Campagne, where the wiues (for the cauſe aforeſaid) ennoble their baſe husbands and their children; as alſo among the Indians in Calecut, the kings euen yet, and the Nobilitie which they call *Naires* haue ſcarce at any time their owne children inheritors of their kingdome or goods, but the children of noble women although they be baſtards: yet for all that the interpreters of the law hold, that it ought not ſo to be done either by cuſtome or decrees; for the generall agreement of almoſt all people to the contrarie, as *Herodotus* hath long ago written. And therefore it is moſt right that the wife ſhould follow the Condition, Countrie, Familie, Dwelling, and beginning of her husband: and in caſe that her husband be an exiled or baniſhed man, yet is the wife bound to follow him, wherein all the interpreters both of the Canon and Ciuill law agree. All lawes and cuſtomes alſo haue made the husband maſter of his wiues actions, and to take the profit of all the lands and goods that to her befall: and ſuffer not the wife to ſtand in iudgement either as plaintiue or defendant, without the authoritie of her husband; or at leaſt without the authoritie of the Judge who may giue her authoritie ſo to do in the abſence of her husband, or he reſuſing ſo to doe. All vndoubtfull arguments to ſhew the authoritie, power, and commaund that the husband hath ouer his wife, by the lawes both of God and man: as alſo of the ſubiectiō, reuerence, and obedience which the woman oweth vnto her husband, in all honour and things lawfull. Yet I doubt not, but that women in their matrimoniall contracts haue ſometimes vſed to couenant not to be in any thing ſubiect vnto their husbands: but for as much as ſuch couenants and agreements are contrarie to the lawes both of God and man, as alſo vnto publick honeſtie, they are not to bee obſerued and kept, in ſuch ſort, as that no man can therevnto to be bound by oath.

CHAP. IIII.

¶ *Of the power of a Father, and whether it be meet for the Father to haue power of life and death ouer his children, as had the auncient Romans.*



He right gouernment of the Father and the children, conſiſteth in the good vſe of the power which God (himſelfe, the Father of nature) hath giuen to the Father ouer his owne children: or the law ouer them whom any man adopteth for children vnto himſelfe: and in the obedience, loue, and reuerence of the children towards their

Fathers. This word Power, is common vnto all ſuch as haue power to commaund ouer others, either publickly or priuatly. So the Prince (ſaith *Seneca*) hath power ouer his ſubiects, the Magiſtrat ouer priuat men, the Father ouer his children, the Maſter ouer his ſchollers, the Captaine ouer his ſouldiers, and the Lord ouer his ſlaues. But of all theſe the right and power to commaund, is not by nature giuen to any beſide the Father, who is the true Image of the great and Almighty God the Father of all things, as ſaith *Proclus* the Academick. *Plato* alſo hauing firſt in certaine chapters ſet downe lawes concerning the honour of God, ſaith them to bee as a Preface to the reuerence which the child oweth vnto the Father, vnto whome next vnto God he is beholden for his life, and for whatſoeuer thing els he hath in this world. And as the Father is by nature bound to nourish his children according to his abilitie, and to inſtruct them in all ciuilitie and vertue: ſo the children alſo when they are once grown

The power of the Father ouer his children is the onely naturall power.

- A** vp are bound, but with a much more straiter bond, to loue, reuerence, serue, and nourish their Father, and in all things to shew themselves dutifull and obedient vnto them, and by all meanes to hide and couer their infirmities and imperfections, if they see any in them; and neuer to spare their liues and goods to saue the life of them by whome they themselves tooke breath. The which bond, albeit it bee sealed with the seale of nature, and engrafted in euery one of our minds, and carrieth with it a readie execution: yet so it is neuertheless, that to show the greatnes thereof there can be no greater argument, than the first commaundement of the second table, which alone of all the ten Commaundements propoundeth a reward vnto children which honour their parents: although no reward be vnto him due that doth but his dutie: and so much the lesse, for that there is no more religious a decree in all the lawes both of God and man; neither any curse greater in holy writ, than against him who wickedly laughed at the naked priuities of his Father. Neither is it matuell if wee in holy Scripture read * of the contentions and strife of the sonnes among themselves, for the getting and foregaining their Fathers blessing; as they which feared more their curse than death: As young *Torquatus* who cast off by his Father, slew himselfe for sorrow. And that is it why *Plato* saith, that aboue all things we must haue care of the cursings and blessings that the Fathers giue vnto their children: for that there is no prayer that God doth more readily heare, than that of the Father towards his children. If children then bee so straitly bound to obey and reuerence their parents? what punishment then deserue they that are vnto them disobedient, irreuerent, or iniurious? what punishment can be great enough for him which shall presume to lay violent hand vpon his Father or Mother? for against him that shal murder either of them, there was neuer yet Iudge or law maker that could deuise torment sufficient for a fact so execrable: although that by the law *Pompeia*, a punishment be appointed rather new and strange, than fit for such a crime. And albeit that we haue seene one in our memorie (who had caused his Father to be slaine) torne with hot yron tongs, afterwards broken vpon the wheele, and so at last (being yet aliue) burnt: yet was there no man which did not more abhorre the wickednesse of his villanie, than the horror of his punishment, and which said not that he had deserued more than he had yet suffered. Also the wise *Solon*, when hee had made lawes for the Athenians, being asked why he had appointed no punishment against him which had killed his Father; answered, That he thought there was no man so wicked as to commit so horrible a fact: which was grauely answered: for the wise law maker should neuer make mention of an offence which is not at all, or but very little knowne, for feare he should not seeme so much to forbid the fact, as to put the wicked in remembrance thereof. But if the crime be great and execrable, he must neither colour it by sufferance, as forgotten, neither point it out vnto the eye with his finger; but by circumstances and propounding of the punishments of like facts, deterre the wicked from such hainous offences. As we see the law of God hath not appointed any punishment against him that murdereth his Father or his Mother, neither against him that beateth either the one or the other (as doth the law *Seruia*, which condemneth them to death for such a crime) yet giueth it full power and authoritie vnto the Father and Mother to stone the disobedient child, so that it be done in the presence of the magistrat, to whome for all that it belongeth not to enquire of the truth thereof, or to examine the matter: which was so decreed least the Father should in his anger secretly kill his sonne. As was one in hunting slaine by his Father, whose wife he had defiled: which thing when *Adrian* the Emperour had vnderstood, said, That so to kill was not the part of a Father, but of a theefe or murtherer: for that the greatest profit of punishment is, that it be exemplarie vnto all. Another part of the law of God * wil-
- B**
- C**
- D**
- E**

The dutie of parents towards their children: and their great dutie againe towards them.

Exod. 22.
Deut. 5.

Gen 27. 28.

* Valer. Max.
lib. 2.

* Leui. 20.
Deut. 17. Exo. 21

leth

Parents how
unwilling to
have their chil-
dren publickly
punished.

leth, That the child which reuileth his Father or mother should die the death : the examination whereof is not left vnto the parents, but to the Iudges themselves, to the intent that the offence should not remaine unpunished. For so great is the loue of the father and of the mother towards their children, that they would neuer (if they might) permit the Iudges to determine of the life of their children, although they had bene of them mortally wounded. As not long agoe it happened with vs, that a Father hauing receiued a deadly wound of his sonne, whome he would haue lightly corrected; and fearing least his sonne apprehended by the magistrat should die for it, ceased not euen to his last gaspe to crie out vnto his son, by speedie flight to saue his life : whom for all that being afterward taken, and confessing the fact, the Iudges condemned to be hanged from an high beame for a time by the feet, with a great stone about his neck, and so afterwards to be burnt quicke. We haue also another example of our time, of a Mother who would rather endure to be reuiled, wronged, beaten, and troden vnder foot by her owne sonne, than to complaine of him vnto the Iudge; vntill that at length he in most beastly manner discharged his bellie into her pottage : with which fowle fact the Iudge moued, condemned him to make her an honorable amends, and to aske her forgiuenesse : from which sentence hee appealed vnto the parlement of Toulouze, where the former sentence was reuerfed as not iust, and the sonne condemned to be burnt quick; the most wretched mother in vaine complaining and crying out against the rigor of the lawes and seueritie of the Iudges, protesting that she did pardon him, and that she had not of him receiued any iniurie at all. And *Seneca* speaking of a Father who but thrust his sonne out of his house; O with what griefe (saith hee) doth the Father cut off his owne limmes! what sighes doth he fetch in the cutting! how often doth he mourne for those limmes cut off! and how often doth hee wish to haue them againe!

Good iustice
done vpon a diso-
bedient child.

That parents
should haue
power of life and
death ouer their
children.

Deut. 21.

* *Cæsar* lib. 6.
Comment.

All this that I haue said, and the examples of fresh memorie by me produced, serue to show that it is needful in a well ordered Commonweale, to restore vnto parents the power of life and death ouer their children, which by the law of God and nature is giuen them, the most auncient law that euer was common vnto the Persians, vnto the people of the vpper Asia, as also vnto the Romans, the Hebrews, the Celtes, and in vse in all the West Indies, vntill they were conquered by the Spaniards : otherwise wee must neuer hope to see the good orders, honour, vertue, or auncient glorie of Commonweals reestablished. For *Iustinian* the Emperour deceiueth vs in saying that no people had such power ouer their children as had the Romans: For we haue the law of God, which ought to be holy and inuiolat among all people; wee haue the testimonies of the Histories both Greeke and Latine, whereby it is sufficiently to be vnderstood, the Hebrews, Celtes, and Persians to haue had the same power ouer their children that the Romans had. The French men (saith *Cæsar*)* haue power of life and death ouer their wiues and children, as well as ouer their slaues. And although that by the law of *Romulus* power was giuen vnto the husband, for foure causes onely to kill his wife: yet neuerthelesse by the same law, full power was giuen vnto the Father to dispose of the life and death of his children, without condition or exception thereunto adioyned; and that whatsoeuer they got, was not theirs, but their Fathers: Which power the Romans had not only ouer their own children, but also ouer the children of other men by them adopted. Which power was about 260 yeares after ratified and amplified by the lawes of the xij Tables, which gaue power also vnto the Father to sell his children: and in case they had afterward redeemed themselves, or were set at libertie by such as had bought them, they might yet sell them againe, and so the third time. The like whereof in all points is to be found in the Westerne islands, as we read in the Historie

- A** of the Indies. And yet at this present amongst the Moscovits and Tartars (whom the auncient Historiographers called the Asian Scythians) it is lawfull for the Father to sell his sonne foure times, after which if he shall redeeme himselfe he is for euer free. By meanes of this fatherly power the Romans long flourished in all honour and vertue; and oftentimes was the Commonwealth therby deliuered from most imminent destruction, when the fathers drew out of the Consistories their owne sonnes being Tribunes, publishing laws tending to sedition. As amongst others *Cassius* threw his sonne headlong out of the Consistorie, publishing the law *Agraria* (for the diuision of lands) in the behoofe of the people, and afterward by his owne priuat iudgement put him to death, the magistrats, Sergeants, & people standing thereat astonied, & not daring to withstand his fatherly authoritie, although they wold with al their power haue had that law for the diuision of lands. Which is sufficient prooffe, this power of the father not onely to haue bene sacred and inuiolable, but also to haue bene lawfull for him either by right or wrong to dispose of the life and death of his children, euen contrarie to the will of the magistrats and people. Also when * *Pomponius* the Tribune of the people, had for diuers causes accused *Torquatus* vnto the people, and amongst other things had charged him that he too much oppressed his sonne with countrey labour: so it fell out that the sonne himselfe going vnto the Tribune, and finding him in bed, setting his dagger vnto his throat, caused him to sweare to desist from further prosecuting of the accusation against his father. So the Tribune coming againe into the Consistorie least he might seeme to vse collusion with *Torquatus*, whome he had before accused, now excused himselfe vnto the people for not presenting his accusation, by the oath extorted from him: which the people vnderstanding, would not suffer him to proceed therein any furtlier. By which two examples a man may iudge that the Romans in their estate, made greater reckoning of the power of the father, than of the lawes themselues, which they called Sacred: by which the head of him was vowed to *Iupiter*, who had onely attempted in offense manner, but to touch the * most holy Tribunes bodie. For they were of opinion that domesticall iustice and power of fathers, were the most sure and firme foundation of lawes, honour, vertue, pietie, where-with a Commonwealth ought to flourish. Neither was it maruell if in the Roman
- D** Commonwealth we see such rare examples of reuerend dutie of children towards their parents, as are not els where to be read of: one I haue amongst a thousand already spoken of; and another such there is, as that Painters euen vnto these times vse therewith to embellish their Tables: that is to wit, of the daughter which secretly gaue sucke vnto her father condemned to be pined to death (which neuer suffereth the healthfull man to liue past the seuenth day) which act of piety the Gaoler hauing perceiued, gaue the magistrats to vnderstand thereof; which by them reported vnto the people, not onely obtained her fathers pardon, but also found such grace as that in the selfe same place in perpetuall remembrance of the fact, they built a Temple dedicated vnto *Pietie*. Yea the very vnreasonable beasts haue a naturall feeling of this kind dutie, and are seenē to feed their parents now growne weake with age: but especially the Storke, which the holy tongue * (which nameth things according to their secret proprietie) calleth *Chasida*, that is to say, dutifull and charitable; for so much as shee nourisheth her father and mother in their age. And albeit that the father be in dutie bound to instruct his children in all vertues, but especially in the feare of God: yet if hee shall forget his dutie, are not the children therefore excused of theirs: albeit that *Solon* the lawmaker contrarie vnto reason, hath by his lawes acquitted the sonne from the nourishing of his father, if he haue taught him no trade or occupation whereby to get his liuing. But the right instruction of children (than which nothing can be deuised more profitable

A notable example of a fathers seueritie against his sonne, being a great officer.

* Valer. Maxi. lib. 4.

* Dion. Halycar. lib. 7. & Livius lib. 3.

The rare pietie of a daughter toward her father.

* Ierem. 17. iob. 34.

or better in a Commonweale) dependeth of that fatherly power which I haue before spoken of. For publick iustice taketh no knowledge of the disobedientnesse & vnrerentnesse of children toward their parents, neither of their other vices, which disordered libertie bringeth their young years vnto, as dicing, drunkennesse, whoredome: and albeit that punishment be appointed against such offences, yet neuerthelesse the poore parents carefull of their reputation and credit, neuer are to complaine of their children vnto the Magistrat, neither accuse them; and yet the power to punish them is taken from them: so that children now standing in no feare of their parents, and much lesse of God doe for most part escape the iudgement of the magistrat, who commonly punisheth but slaues and such others of base condition.

The power of fathers over their children much profitable to the Commonweale: and the want thereof much hurtfull.

But impossible it is that the foundation of a Commonweale being euill laid, (that is to say, the bringing vp of children and families) any thing that is firme and sure should be thereupon built. Besides that, the contention, strife, and discord, which we daily see amongst brethren and sisters, were easily appeased and extinguished whilest the father yet liued, their marriages not taking from him this power ouer them: and albeit that he had set at libertie them that were married, & departed out of his house, to keep house by themselves, (which they easily did not) yet neuerthelesse the remembrance of the reuerend duty they ought vnto their parents for euer remained fast imprinted in the harts and minds of the children. Wherefore should wee then maruell the magistrat to be troubled with so many sutes, and those for most part betwixt the husband and the wife, betwixt brethren and sisters; yea and that more, is betwixt parents and their children? but that the wife, the children, and seruants, are all loosed from the domestically power of their ancestors. So the fatherly power being by little & little diminished vpon the declination of the Roman Empire; so also shortly after vanished away their ancient vertue, & al the glorie of their Commonweal: and so in place of pietie & ciuilitie, ensued a million of vices and villanies. The first staine, and beginning of taking away the power of life and death from parents, proceed from the ambition of the Magistrats, who seeking to encrease their iurisdiction, & by little and little drawing vnto them the deciding of all matters, extinguished all domestically powers: which happened especially after the death of *Augustus Caesar*; at which time wee read the magistrats to haue bene almost alwayes occupied in punishing of such as had murdered their parents. As we read in *Seneca*, who directing his speech vnto *Nero*, saith, We haue seene more murderers of their parents executed in fve yeares of thy father, than were euer in all ages accused since the foundation of Rome. Now to him that will looke neerer into the matter, it is no doubt, but that if one or two that haue murdered their fathers haue bene executed, ten others haue escaped mans punishment; the health and life of parents being subiect to a thousand daungers, except their children either by the feare of God, or the goodnesse of their owne nature, be kept within the bounds of their dutie; neither ought it seeme straunge vnto any man, that *Nero* made no conscience to kill his mother, neither repented him to haue killed her, for that it was a thing common: the cause whereof *Seneca* giueth not, which was, for that the father to chastice his son must then go to the magistrat to accuse him, which the ancient Romans could neuer endure. For *Quintus Fulvius* the Senator in the time of *Cicero*, of his owne authority put to death his sonne, for taking part in the conspiracie of *Cateline*. And in the time of *Augustus*, *Tatius* the Senator being about to proceed against his sonne in a capitall crime, requested *Augustus* home to his house, who being come thither, tooke not vpon him the place of a Iudge (as saith *Seneca*) but of a priuat man, as come onely to giue counsell. We see also that by the law *Pompeia*, made against parricides, all they which are next of kinne are bound to the penaltie of the law, except the father. Yet it sufficiently

How the power of life and death over their children was in Rome first taken from their parents.

- A** ently appeareth, that in the time of *Vlpian* and *Paul* the Lawyers, the power that fathers had of life and death ouer their children lay then in a sort buried and forgotten: for that one of them saith; The father must accuse his sonne before the Iudge: and the other, That the children are not of right to complaine, if they be by their fathers disinherited, considering that in auncient time (saith he) they might put them to death. Both of them flourished in the time of *Alexander Seuerus*. And yet is there no expresse law to be found which hath taken from parents the power of life and death, before the time of *Constantine* the great: neither did that law of *Constantine* directly in expresse tearmes abrogate the old lawes: *Dioclesian* the Emperour but a little before *Constantine* hauing decreed that the Iudge ought to giue such sentence against the sonne as the father was willing vnto. Now it is manifest by the law, that a positieue law cannot bee abrogated by any custome, be it neuer so old; except it be repealed by a contrary law, carrying expresse derogation with it: otherwise being in force and readie to be againe put in vse: insomuch that it was necessitie that certaine lawes of the xij. tables by long custome out of vse, yet for all that should by a new law bee abrogated: which was done at the motion of *Ebutius*, in whose time the fathers power of life and death, yet kept their children with in the compasse of their dutie. But when the children in the time of *Constantine* had by the sufferance of their fathers by little and little shaken off that power and authoritie of their fathers, they obtained also of the same Emperour, That of their mothers inheritance their fathers should haue but the vse and profit, and they themselues the proprietic, which their fathers might not alienate. And afterwards they likewise obtained of *Theodosius* the yonger, That the proprietic of all manner of goods in generall howsoeuer they came by them, should belong vnto the sonnes, the vse and profit thereof onely being left vnto the fathers; so that they could not alienate the proprietic, neither in any sort dispose thereof; yea and with vs not onely the vse and profit of such goods, but not so much as the bare vse is left vnto the father, which hath so puffed vp the hearts of the children, as that they oftentimes commaund their parents, by necessitie constrained to obey them, or to die for hunger.
- Iustinian* also would not that children should be set at libertie by their parents without their owne consent, that is to say, without some bountie which the father ought to giue vnto his sonne: when as yet for all that in old time emancipation or setting at libertie, was the reward of the child's kindnesse and dutifulnes towards his parents. Hereof proceeded that filthie buying and selling of emancipation betwixt fathers and their children: insomuch that such things as the father had giuen vnto the sonne in reward of his emancipation, remained vnto him for gaine; neither was he bound to communicate the same with his brethren, or to haue any whit the lesse therefore of his fathers inheritance, except the same were expressely comprehended in the lawfull act of emancipation: which they also yet vse amongst vs, which haue the Roman decrees for lawes. But if the sonne hath learned any gainefull trade, or is by trafficke in marchandise become rich, and giueth something vnto his father that setteth him at libertie, it is counted vnto the father for the right he should haue in the goods of his son dying before him, so that he can claime no part therein, although it be not at all expresse in the act of the sonnes emancipation; or yet be expresse that such gift vnto the father yet liuing, should be no let wherefore he should the lesse haue the whole right of the lawfull inheritance, his sonne dying before him. For why? that whatsoeuer it is that is giuen to the father, is accounted as giuen him for his lawfull part: so that by this means the father is in worse state than the sonne, who for all that both by the lawes of God and man is bound to nourish his parents so long as they liue, the father not being bound by the law of *Romulus* to nourish his sonne, but vntill he be seuen yeaes old. And although

Note.

How parents
were wont to
emancipate their
children.

*Whether pa-
rents be bound to
nourish their
children: and
how long.*

though Lawyers goe farther, neuerthelesse to make it plaine that parents are not bound to feed their children, it was neuer by any law permitted for children to sue their parents for their food, but by the leaue of the magistrat by humble request before obtained. Besides all these indignities, *Iustinian* hath exempted all Senators, Bishops, & Consuls from the power of their fathers: as in like case them also which enter into houses of Religion. And in countries also where we vse Statute laws, besides those we haue spoken of, they haue also exempted out of their fathers powers them that are married, or haue beene out of their fathers houses by the space of ten yeares: which hath caused the Italian Lawyers to write that the French men are not in the power of their fathers: as in truth there remaineth nothing thereof, but the imaginarie shadow, when as the father authoriseth his children vnto lawfull acts, as to redeeme lands of inheritance, which the father himselfe hath sold, or to take a possession doubtfull, or for the trade or traffique of marchandise: in which case the Iudge without the kings letters royall at the request of the father may set at libertie his sonne. And albeit that *Philip* of Valois set at libertie his sonne *John*, to giue vnto him the dutchie of Normandie: yet such his emancipation serued to no purpose, no more than those which were ordinarily made; seeing that neither the giuer, neither he to whome the thing was giuen, neither the thing it selfe giuen, were subiect vnto the Roman ciuill law: nor that the fathers (in countries gouerned by customs) had any thing to do with the goods of their children.

*Whether the
sonne may resist
his father offer-
ring him violence
or for any cause
kill his father.
Souldiers in an-
cient times were
beaten with
rines.
Plin. lib. 12.*

But the fathers thus dispoiled of their power, and of the goods got by their children, it is yet by many demanded, If the sonne may of right defend himselfe, or withstand his father, offering him violence? Neither haue there wanted some which were of opinion, That the sonne might of right so do: as if in that there were no difference whether the father or any other should offer him violence. But if it be so that the souldior which had onely broken the vine trunchion of his Captaine, beating him by right or wrong, was by the law of armes to be put to death: then what punishment deserueth the sonne which layeth hand vpon his father? Yea some haue passed further, and written that the sonne might kill his father, if he were an enemy vnto the Commonweale. But in mine opinion that is not vnlawfull onely for any man to doe, but impietie also for any man so to write: for these men in so doing propound not onely pardon vnto parricides, but giue leaue also vnto others to presume to do the like, secretly encouraging them to commit so detestable a fact, vnder the color of the publick profit: whereas an antient author saith, That no fault so great can by the father be committed, as that the same should with his murder be reuenged. O what a number of fathers should be found enemies vnto the Commonwealth, if these resolutions should take place? And what father is there which in the time of ciuill warre could escape the hands of his murderous child? For men know well that in such warres the weakest goeth to the wals, and they that get the vpper hand make all traitors whom they list. And in other wars not onely they are iudged traitors which haue giuen vnto their enemies help and counsell, but also they which haue sold them armour, come, or other victuals. As by the laws of England, to aid the enemy in any sort whatsoever, is accounted high treason. Which points of treason I see not to be distinguished by these interpreters of the Roman law. But by these resolutions, that is come to passe which posteritie will not beleue: as that a banished man of Venice, hauing brought to Venice his owne fathers head, who was banished as well as himselfe, demaunded and obtained also in reward of his so execrable a murder, the honours and rewards by the Venetian lawes due; viz. His returne into his countrey, his goods, his children, and the liberties of the citie, before taken from him. But happily it had beene better that the citie of Venice had

*A strange exam-
ple of a most vni-
nauyall sonne.*

A had bene swallowed vp with the sea, than to haue giuen a reward vnto so great and detestable a villanie. *Henrie* the second the French king, tooke in good part the excuse of *Maximilian* king of Bohemia in the yere 1557, in that he had refused to giue safe conduct vnto the duke of *Wittemberg*, ambassadour for the French; confessing that it was indeed against the law of nations, but that yet neuerthelesse he durst do no other for disobeying of his father. Now if it be lawfull to violat the lawes of nations rather than to disobey our father in so small a matter; what iust excuse can there bee, or reason giuen for the killing of ones father? Wherefore I thus resolue, That there can be no iust cause for which a man may lawfully lay violent hand vpon his father. And albeit that such killing of ones father be in it selfe a fowle fact, yet fowler is the reward thereof; but of all other things most fowle and pernicious it is to allow reward for the same, for that by prouiding such rewards for killing of a mans father, neither brethren can be in safetie from being murthered by their brethren; neither the nighest kinsmen for being slaine one by another. As indeed it chaunced in the yere 1567 that *Sampetre Corse* was slaine by his owne cosin germaine; for which he had giuen him in reward ten thousand crownes, which the Senat and people of *Genua* had caused to be leuied for him. But how much better were it to follow the example of *Cicero*, who thought it better as it were in silence to passe over the selfe same questions moued by the two auncient Philosophers *Antiochus* and *Antipater*, as a place too slipperie and daungerous. Ioyning hereunto also, that the law of the Romans it selfe forbiddeth any reward to be propounded vnto banished men for the killing of theemes: howbeit that *Adrian* the Emperour would haue him pardoned that had killed a theefe. Wherefore I thus conclude, That princes and law makers should measure the power and authoritie of parents, according to the law of God; whether they be their lawfull, or naturall children, or both together; so that they be not conceiued in incest, for such the lawes both of God and man haue alwaies had in detestation.

Now if some shall obiect it to be a thing dangerous, least some furious or prodigall fathers should abuse the goods or liues of their children, vnder colour of their fatherly power: to him I aunswere, that the lawes haue for such men provided guardians, and taken from them that power ouer another man, considering that they haue not power ouer themselves. And if the father be not sencelesse or mad, hee will neuer without cause kill his sonne, seeing that he willingly chastiseth him not though he deserue the same. For so great is the loue and affection of parents towards their children, that the law neuer presumed that they would do any thing to their disgrace, but all to their honour and profit. Wherefore the parents are euer thought to be free from all fraud in their childrens affaires, whome to encrease with riches and honor, they doubt not ofentimes to forget the lawes both of God and man. And for this cause the Father hauing slaine his sonne, is not by the law *Pompeia* subiect to the paine of parricides: for why? the law presumeth that he would not without good and iust cause so doe; and hath priuatly giuen power vnto him to kill the adulterer and his daughter found in the fact together. All most certaine and vndoubted arguments, whereby it is to be vnderstood, that parents cannot abuse the power of life and death ouer their children; neither that if they could, yet would they. But haply some man will say, there haue bene many which haue abused the same to the vnworthy death of their children; yet bring no example therof: Let vs grant some such to haue bene: should therefore a good law giuer leaue a good law vmade for the inconueniences which some few times ensue thereof? It being a common saying in the law, That of such things as seldome happen the lawmaker ought to take no care: And where euer was there a law so iust, so natural, or so necessarie, that was not subiect vnto many inconueniences? So that he which

Obiections against the power of fathers ouer their children.

would abrogat al laws for some few absurdities ensuing of them, should not leaue one of them, as *Cato* the greater wisely reasoned. In brieft (I say) that the natural loue of fathers and mothers toward their children, is impossible and incompatible with so great crueltie, as is the vniust killing of their children: and that the greatest torment that a father can endure, is, to haue either by right or wrong killed his sonne. As in fact it chaunced in our memorie, in the countrey of Aniou, that a father desiring to chastice his sonne, whome running from him he could not ouertake, hauing by chaunce without any such purpose slaine him with a blow vpon the head, with an hard clod of earth which he threw after him, forthwith for griefe hung himselfe, although no man knew any thing therof. Which things the antient *Ægyptian* law giuers wel vnderstanding, appointed no other punishment against him that had wrongfully or without cause slaine his sonne, but for the space of three daies after to bee shut vp together with the dead bodie of his sonne so by him slaine: For they thought it a thing detestable, for the death of the sonne to take away the life of the father, from whome he had receiued his. Yet might one say, that if fathers had the power of life and death ouer their children, they might constraine them to do something hurtfull vnto the Commonweale: Wherunto I aunswere first, that that is not to be presumed; and then that although it were so, yet that the lawes had therefore wisely provided, hauing at all times exempted the children out of the power of their fathers, in that which concerned the publick State. As also *Fabius Gurges* gaue vs well to vnderstand, who being Consull, and seeing his father a priuat man mounted on horseback comming towards him, commaunded him by one of his sergeants to alight, which he did, doing honour vnto his sonne, and bidding him in such sort to proceed to defend the Consuls dignitie. And so farre hath it bene from wise fathers to commaund their children any thing that might be hurtfull to the Commonweale, as that there haue bene some of them found to haue put them to death for transgressing the publick lawes: as first did *Brutus* his two sonnes, and after him *L. Torquatus* the Consul, who hauing caused his sonne to triumph in his campe for vanquishing his enemy in combat, presently after caused his head to be struck off, for that he had fought with him contrarie to his commandement and contrarie to the law of armes. There is yet one obiection concerning the childrens goods, which if they should be in the full disposition of the fathers, they might without cause disinherit some, and enrich others: wherunto mine aunswere is, That the lawes haue therefore also provided, by offering iustice vnto children disinherited; and propounding the causes of lawfull disinheriting. Howbeit that the antient law of the Romans is more commendable, which neuer permitted the child by way of action to impugne his fathers will and testament; but onely by the way of request, and speaking of his dead father in all humilitie all honour and reuerence, leauing all the matter vnto the discretion and conscience of the Iudge. But after that the Pretors, who could not make any man heire vnto his father, yet by their decrees gaue possession of the goods (the force of which possession, was almost the same that it was to be appointed heire,) & that the magistrats had bound certain definit portions vnto the children; then forthwith began the parents by little and little to be contemned of their children, & their death by them longed for. Which thing was the cause that one of the Ephori of the Lacedemonians made a law * concerning the making of Testaments, whereby it was lawfull for euery man to bequeath his goods as he pleased (when as before, the libertie of making of Wills was by long custome taken away) alledging that the pride and insolencie of children against their parents was so by the feare of disinheriting to be restrayned. But if any man shall account it better for inheritances to be conferred by the appointment of the lawes than by Testament, I will not strue with him

- A him therefore, seeing it is by the law of God * set downe that children should not by
 assentation and flatterie rather than by their kind duties preuenting their fathers inheri- * Numer. 23.
 tances, spoyle themselues of their mutuall and brotherly loue : but yet why vse we not
 the same diuine law * which giueth vnto the father the power of life and death ouer his * Deut. 21.
 children.
- Wc haue before said, fathers to haue had that power of life and death ouer them *Adoptiue chil-*
 also whome they had adopted : in like manner as they had ouer them whom they had *dren as well in*
 in lawfull matrimonie begotten : and although the lawes of adoption were by the new *the power of*
 lawes of *Iustinian* almost abrogated ; yet I thinke no man doubteth but that the law of *their adoptiue*
 adoption was of so auntient right, & so common also almost vnto all people, as that it *fathers, as were*
 deserueth to be againe called into vse. Wc see the most auntient people to haue had *the children be-*
 it in singuler estimation : as we read *Iacob* himselfe to haue adopted *Ephraim* and *Ma-* *got in lawfull*
nasses * his nephewes, (albeit he had twelue children yet liuing, who had diuers others *matrimonie.*
 also) and gaue them part of the land which hee had by force of armes conquered. * Gen. cap. vii.
 Which to haue hene before also in vse with the *Egyptians*, is manifest by *Moses*,
 whome the kings daughter * adopted for her owne. Wc see also *Thesens* to haue * Exod. i.
 bene solemnly adopted by *Egeus* king of Athens, who made him his successor in the
 State, albeit that he was but his base sonne : After which time all the Athenians which
 had base children by Athenian women, were constrained to adopt them, and to cause
 them to be registred as their lawfull children, and to leaue them their part and porti-
 on of their goods as they did vnto the rest of their children. For why? they account-
 ed none a bastard but him that was begotten of a father or a mother, being a straunger;
 albeit she were a woman of neuer so great honour. As also all the people of the East
 made little or no difference betwixt the children that they had by their wiues and their
 handmaids. For *Iacob* the Patriarch made like reckoning of those which hee had by
 his wiues, and of those which he had by his handmaids : although that *Sara* had dri-
 uen out of his fathers house the child begotten by the handmaid, * least he should haue
 had part in the lawfull inheritance. And *Diodorus* * also writeth, The children of the * Lib. 2. cap. 3
Egyptians begotten of their bondwomen, to haue had as great prerogatiue as the rest
 that were begot in lawfull marriage. For why? it was lawfull for them to haue as ma-
 ny wiues as they would ; as it was also vnto the Persians & all the people of Asia : and
 almost onely the Germans of all the barbarous nations (as saith *Tacitus*) had euery one
 of them but one wife. Thus hauing confirmed the matter by course of historie, it fol-
 loweth by consequence all the children of one and the same father to haue bene in his
 power, were they adoptiue or not. But the Romans of auntient time made no more
 account of their base children than of meere straungers : neither were they compelled
 to adopt them, as were the Athenians, neither to bequeath them any thing by their
 will, neither had they any power ouer them. Which seueritie of the lawes was yet
 moderated in the raigne of *Theodosius* and *Arcadius*. And afterward it was ordained
 by the Emperor *Zeno*, that such base children should be accounted for legitimat, by the
 marriage of their father afterwards ensuing with their mother. And that more is, *Ana-*
 stasius decreed that all bastards should by adoption be reputed legitimat : but first *Iu-*
 stinus, and after him *Iustinian* abrogated that decree, and shut the gate against bastards,
 to the end that euerie man should desite to haue lawfull wiues and children ; and that
 auntient houses, and the rights of successions and inheritances should not bee altered
 and troubled by the adoption of bastards : the rights of adoption neuerthelesse yet
 still remaining, which had bene receiued to supplie the defect of nature ; and whereof
 the auntient Romans had had so great esteeme, as that the adoptiue fathers had the
 same power of life and death ouer their adoptiue children, that they had ouer their

owne: which was the true cause that women could not adopt children before the
 edict published by *Dioclesian*, considering that they themselves were in the perpetuall
 power of their parents, husbands, or neere kinsmen: as also in Greece it was not lawfull
 for them to adopt, as writeth the Orator *Isæus*. So then the right of adoptions, enno-
 bled by the Romans (and especially after that they had extended the frontiers of their
 Empire more than euer before) other people also had it so much the more in regard:
 the Gothes, (I say) the Germans, the French, the Saliens; as we see in the lawes of the
 Ripuaires, where they vse the word *Adfatinir* for adopter: holding their adoptiue chil-
 dren in the same degree that they did their owne naturall and lawfull children, in the
 right of their succession into their inheritance: For by the auntient custome of the
 Romans they were both indifferently called vnto their fathers inheritances as his
 heirs. For so we read in *Cassiodorus*, that *Theodoric* king of the Gothes, adopted the
 king of the Herules: and that *Luitprand* king of the Lombards adopted the sonne of
Charles prince of Fraunce, by cutting his haire, although he had sonnes of his owne in
 lawfull marriage begotten: as did in auntient time *Micipsa* king of the Numidians,
 adopting *Iugurtha* his base sonne, albeit he had two lawfull children of his owne, and
 leauing his kingdome equally diuided amongst them three: when as yet the first and
 chiefe cause of adoptions was to supplie the defect of nature; that he to whome nature
 had altogether denied children, or at leastwise male children, might by the authoritie
 of the law haue that defect supplid. As *Scipio Africanus* hauing no more children
 but *Cornelia* the mother of the Gracchi, adopted the sonne of *Paulus Æmilius*, after-
 wards called *Africanus* the younger, whome he left the inheritor not of his name on-
 ly, but of his goods also. And so also *Cæsar* the Dictator, hauing no children of his
 foure wiues, more than *Julia*, which was married to *Pompeius*, adopted *Octavius* his si-
 sters sonne, whom by his will he made heire of three parts, with charge that he should
 beare his name; whereby his owne fathers name was taken away, and hee knowne by
 the name of his adoptiue father. And he againe hauing no children but *Julia* (whome
 he called the Impostume of his house) adopted *Caius* and *Lucius* his sisters sonnes
 bought at home of their father *Agrippa*, according to the auntient manner: who after-
 ward dead also without issue, he adopted *Tiberius*, who adopted *Caligula*: so did *Clau-*
dius adopt *Nero*, vnto whome *Galba* succeeding without children, * adopted *Piso* be-
 fore his armie, which custome was afterwards kept in the adoption of * *Aurelianus*
 the Emperour; as would *Iustinian* the Emperour haue adopted *Cosroe* king of Persia,
 which he refused; supposing (though yet falsly) the way vnto the Empire to bee by
 that meane shut vp. * We read also that the Emperour *Nerva* for lacke of children
 adopted *Traian*; & he *Adrian*; who afterward adopted *Antoninus Pius*; and not con-
 tented to haue adopted so good a man, charged him also whilst he yet liued, to adopt
Ælius Verus, and *Marcus Aurelius*, surnamed the Philosopher, to the intent the Em-
 pire should not want the most vertuous Emperours that euer were. But this last ha-
 uing begot *Commodus* heire apparant to the Empire, (but the most vitious man that
 might be) was about to haue adopted another more worthie of the Empire, had hee
 not bene otherwise perswaded by his friends. For that almost no man vsed to adopt
 others, if he had legitimat children of his owne. For which cause *Claudius* the Empe-
 rour was euil spoken of, for being perswaded by the inticement of *Agrippina* his second
 wife, he had adopted *Nero* her sonne, hauing sonnes and one daughter by his former
 bed, who were afterwards slaine by *Nero*. But to leaue straungers which are infinite,
 and to come to our owne domesticall examples: *Lewes* duke of Aniou and brother to
 king *Charles*, was for want of heire adopted by *Ioane* (who of her incontinencie was in
 reproach called *Lupa*) who in the right of that adoption left vnto him the kingdome of
 Naples,

* Tranquil in
Galba.
Vopiscus in
Aureliano.

* Procopius.

- A** Naples, hauing reiected her nephew *Alphonfus* king of Aragon, whom she had before by consent of, the * Pope adopted. Afterwards also *Rene* of Aniou, *Lewes* his nephew, * *Martinus. V.* was adopted by *Isane* the younger queene of Naples for want of children. And at the same time as it were, that is to say, in the yere 1408, *Henry* duke of Pomeran was adopted by *Margaret D'wolmar* queen of Denmark, Sweden, & Norway, to succeed her in the same kingdoms. And not long after, *Henry* the fift king of England was adopted, not by *Charles* the sixt then distracted of his wits, but by his wife: who by her new son in law, caused *Charles* her owne sonne to be denounced incapable of the Crowne, albeit that he were a right wise and vertuous Prince. But *Iustinian* the Emperour willing to remedie such abuses, ordained that adoptiue children should neuerthelesse not faile
- B** to enioy the inheritance of their owne naturall or lawfull fathers; for that their adoptiue fathers would oftentimes vpon small occasion cast them off againe, whereby it came to passe that they went without the inheritance of both their fathers: yet did he wrongfully take away the right of the fathers power, which was the onely marke of adoption, which taken away, nothing more remained. Now it were much better to prohibit adoptions to them, which had somes either naturall or legitimat: & in case they had none, that the adoptiue children should succeed in all the right of their owne naturall and lawfull children. Truly by our custome it is lawfull for euerie man to adopt: yet no preiudice is thereby made vnto the next of kin, or them which should lawfully inherite: for that more cannot be giuen or bequeathed vnto the adoptiue sonne, than to him that is a meere straunger: and yet that the father might for all that receiue the profit of the adoption; whereof *Scipio Africanus* the Great, in his time complained in the Oration which he had vnto the people of his Censureship: as also after the publication of the law *Iulia Pappia*, which gaue great priueledges vnto them which had children: they which had none adopted some (to haue the benefit of the lawes, to be capable of some Magistracie or office) and in short time after they had once gained that they sought for, cast off those their adoptiue children againe, so abusing the law. As contrariwise *Clodius* beeing a noble man borne, caused himselfe to be adopted by a man of base condition, that so discharged of his Nobilitie, hee might bee made Tribune of the * people; but hauing got that office, caused himselfe presently to
- C** be set at libertie by his adoptiue father: Which the Senat vnderstanding, decreed that from thenceforth they which were adopted should not enioy the priuiledge of any publick office: neither that any man should vnder the colour of such children as hee had adopted obtaine any magistracie or honour vnto himselfe; neither hinder substitution made for want of children; neither to haue the benefit of any conditionall legacies, or couenants made or conceiued in hope of children; nor that for such adoptiue children, such donations should be void, as were by the law it selfe to be reuoked when the donatour had any children, either naturall or legitimat; nor that by the adoption of male children, women should be kept from their lawfull inheritance, from which they by the law are wont by the male children to bee excluded; neither that the word
- D** *Sonne* added vnto the lawes, testaments, or other lawfull acts was to be extended vnto them whome we adopt: all which deceits it is good to cut off, and yet not to extinguish the right of adoptions; and at the least to leaue vnto the adoptiue father his fatherly power, to keepe in obedience his adoptiue sonne. And thus much of the second part of a Familie, concerning the power of a father ouer his children, and of their mutuall duties. Now let vs likewise speake of the third part also.
- E**

Cicero pro do-
mo.

CHAP. V.

F

Of the power of a Lord or Maister ouer his Slaues, and whether Slaues are to be suffered in a well ordered Commonweale.



Whereof a Familie cooke name.

He third part of the gouernment of a Familie dependeth of the power of the Lord oues his Slaues, and of the Maister ouer his seruants; and in their mutuall duties one toward another. For the very name of a Familie, came of *Famulus* and *Famulatio*, for that it had in it a great number of Slaues: and so of the greatest part of them that are in subiection in the Familie, men call all the whole household

a Familie; or els for that there was no greater meanes to gather wealth than by slaues and seruants, which the Latines call *Famuli*, the auncients not without cause haue called this multitude of Slaues and seruants a Familie. And *Seneca* willing to show of what moderation a Master ought to be toward his Slaues, saith our ancestors to haue called the head of a Familie, Father of the Familie, and not Lord. And for that the whole world is full of Slaues, excepting certaine countries in Europe (which since also by little and little receiue them) it is needfull here to reason of the power of Lords and Maisters ouer their Slaues, and of the profits and disprofits which may redound vnto a Commonweale, if slavery should againe be called into vse: a question of great moment not for Families and societies onely, but for all Commonweals also in generall.

G

The diuision of Slaues.

Now every Slaue is either naturall, that is to wit, begotten of a woman Slaue, or made a Slaue by law of armes; or by some crime committed (whome men call a slaue to punishment) or one which hath for money departed with his libertie, or hath plaid away his libertie, as did in auncient time the Almans: or else such an one as hath voluntarily vowed himselfe to be a perpetuall Slaue vnto another man; as was the manner of the Hebrewes. The prisoner in warre was Slaue vnto the vanquisher, who was not bound to put him to his ransome, if it were not otherwise agreed vpon; as it was in auncient time in Greece, that the Barbarian prisoner taken in warre, might bee put to the chayne, and kept as a Slaue; but as for the Greeke, that he should be set at libertie in paying for himselfe a pound of gold. The like law almost was made amongst the Polonians,

H

* Cromer in hist. Polon. & in statutis Pol.

* where it was decreed by the States, That all enemies taken prisoners in iust wars, should remaine Slaues vnto the vanquishers, except the king would pay two Florins for euery head. But he that had paid the ransome of any prisoner, was bound to set him at libertie, hauing againe receiued his money: otherwise he might keepe him, not as his Slaue, but as his prisoner; according to the most auncient law of the Greeks; which from them deriued vnto the Romans, was afterward in vse with all nations. As for debtors, prisoners vnto their creditors, although it were lawfull by the law of the twelue Tables, to diuide them in peeces amongst their creditors, giuing to some more, some lesse, according to the proportion of euery mans debt, if they were not able to pay: yet for all that so it was, that if he had one creditour, he could not take from him his life, and much lesse his libertie, a thing much dearer than life. For the father might well sell, chop, and chaunge his children, yea and take away their liues also, but yet could not take away their libertie: for the good and noble hart would alwaies rather chuse to dye honestly, than vnworthily to serue as a base Slaue. And that is it wherefore the law of the twelue Tables (which adiudged the debtor not able to pay, vnto the creditor) was shortly after at the request of *Petilian* Tribune of the people, taken away, and a decree made, That from that time forward the debtor should no more bee adiudged vnto his creditor, or diuided in peeces among his creditours, neither by them for his debt be detained; yet reseruing vnto the creditor power to cease vpon his goods,

I

Aernell law against debtors.

K

A or by other way of iustice to come by his debt, so as he saw he might by reason: which law continued firme and inuiolat 700 yeares, vnto the time of *Dioclesian*, who caused the same law afterward to be published vpon paine of death.

And thus much concerning all sorts of slaues: for as for them which are taken by theetes or pirats, or by false titles are sold for slaues, they continue neuerthelesse free, and in tearms of right may do all lawfull acts. As for other domestical seruants, which for wages or without wages do their seruice, they cannot by contract or agreement whatsoeuer, doe any thing preiudiciall to their libertie: neither in receiuing any legacie vpon condition be it neuer so little seruile: neither can the slaue himselfe when hee is manumised, promise vnto his lord that hath set him at libertie, any thing preiudiciall

Domesticall seruants, cannot make themselves slaues by any contract that they make with their masters.

B vnto his libertie, other than the seruices ordinarie & agreeable vnto all such as are enfranchised. And this is it for which the Arrests of the Parlement of Paris haue oftentimes disanulled the contracts of seruants free borne, which haue bound themselves vpon a paine to serue certaine yetes: which neuertheles they yet do in England & Scotland, where the maisters after the terme of seruice expired, comming before the Iudges of the places, enfranchise their seruants, & giue them power to weate their caps; which was the auntient marke of a slaue newly enfranchised, to couer his shauen head vntill his haire were growne: which gaue occasion vnto *Brutus* after that *Cesar* was slaine, to cause certaine money to be coined * with the impresion of a cap vpon it; as hauing set at libertie the people of Rome. And after the death of *Nero*, the common people went

Prentises of England by covenant, for a time slaues.

Plutar. in vita Cesaris.

C vp and downe the streets with caps vpon their heads, in signe of their libertie. And king *Eumenes* after the death of *Mithridates*, comming to Rome, and with his cap on his head entring the Senat, acknowledged himselfe to hold his libertie by the people of Rome. Now albe it that domestical seruants be not slaues, and that they may do such acts of libertie as free men may, bee it in iudgement or out of iudgement; yet are they not as simple mercinarie men which labour for their daies wages, ouer whome he that hath hired them hath neither power nor commaund, nor any manner of correction, as the maister hath ouer his domestical seruants, who owe seruice, honor, and obedience vnto their maisters, so long as they are in his house, and may with moderate discretion chastice and correct them. For domestical seruants ought to reuerence their maister, and do them all honest seruice and duties: wherof, for that they haue a mutuall comportment one of them towards the other, and belong vnto morall discipline, we will not in this place reason.

Mercinarie labourers no slaues

D But as concerning Slaues, there are two great difficulties, not yet resolved vpon: the one, Whether slauerie be naturall & profitable to a Commonweale, or contrarie vnto nature, and vnpromisable: the other, What power the lord of right ought to haue ouer his slaue. Concerning the first point, *Aristotle* is of opinion that the seruitude of slaues is of right naturall: and to proue the same, We see (saith he) some naturally made to serue and obey, and others to commaund and gouerne. But Lawyers, who measure the law not by the discourses or decrees of Philosophers, but according to the common sense and capacite of the people, hold seruitude to be directly contrarie vnto nature; and do what they can to maintaine libertie, still interpreting such things as are obscure and doubtfull (whether it be in the lawes, or in testaments, in covenants, or indgements) so in fauour of libertie, as that they giue no way either to lawes or to testaments: And if so be that the force of the lawes be so great and so plaine as that they may not swarue from them; yet do they protest that bitterness of the lawes to displease them, calling it hard and cruell. But of these two opinions wee must chuse the better. Now many reasons there bee to proue that seruitude is profitable vnto the Commonweale, and also agreeable vnto nature: For euery thing that is contrarie vn-

Two notable questions concerning slauerie.

Slauerie in the opinion of Aristotle, a thing naturall, but not so in the iudgement of the Lawyers.

*Reasons to proue
that seruitude
or slavery is pro-
fiable vnto a
Commonweale:
as also agreeable
vnto nature.*

to nature, is of no long continuance: and if you would force it against nature, yet will it of it selfe againe returne vnto the naturall course thereof; as is plainly seene in all naturall things. But seruitude seemeth to haue taken the beginning thereof immediatly after the generall deluge; and euen so soone as any forme of a Commonweale was to be seene, and so hath alwaies euer since continued: and although seruitude in these latter times was left off, for about three or foure hundred yeares, yet is it now againe approued, by the great agreement and consent of almost all nations; yea the people of the West Indies, which are three times greater than all Europe, who neuer heard speech of the lawes of God or man, haue alwaies bene full of slaues; neither hath there bene any Commonweale in the world, which hath not had slaues in it: yea the holiest men that euer liued haue vsed them: yea and that more is, in euery Commonweale the lord had power ouer the goods, the life and death of his slaue, except some few, where the Princes and lawmakers haue something moderated this power. Now like it is not, that all people and nations in euery place, so many kings and princes, so many lawmakers (men for their vertue and experience most famous) would with so great consent, and so many worlds of yeares, haue receiued slaues, if it had bene a thing repugnant vnto reason and nature. And what can be more agreeing vnto curtesie and naturall reason, than after victorie obtained, to saue them whome thou hast taken prisoners in iust warre, to giue them meat, drinke, and cloathing, & with great charitie to releue them? & for so great benefits to exact of them only their seruice & labor? is it not much better than in cold blood to kill them? And this was the first beginning of slaues. Now whereas it agreeth also with the lawes of God and man, that he that hath not wherewith to pay for the fault by him committed, should be punished in his bodie; is it not better and more curtesie to haue him kept to labour in the publicke works? whereof such were also called seruants to paine, another kind of seruitude. In like sort, he that shall vniustly lie in wait for another mans goods, life, or state; what doubt is there but that he is a verie theefe and robber, and deserueth death? Then is it not contrarie vnto nature, to saue him for labour, in stead of putting him to death: for the word Seruant, commeth of saning, albeit that some vnskillfull Grammarians reprehend *Iustinian* in so saying. Now if it were contrarie vnto nature, that one man should haue power of life and death ouer another, there should be neither kingdoms nor seignories, which were not contrarie vnto nature, seeing that kings and monarches haue the same power ouer their subiects, be they lords or slaues, if they once fall into any capitall crime.

*How seruitude
is agreeable vnto
nature: and
how not.*

These arguments haue some good shew to proue that seruitude is naturall, profitable, and honest, but it may well be answered. I confesse that seruitude is well agreeing vnto nature, when a strong man, rich and ignorant, yeeldeth his obedience and seruice vnto a wise, discreet and feeble poore man: but for wise men to serue fools, men of vnderstanding to serue the ignorant, and the good to serue the bad; what can bee more contrarie vnto nature? except a man should thinke it reasonable for a wise counsellour to be ouerruled by his foolish Prince; or a sober and temperat seruant to bee gouerned by his bedlem and riotous Maister. As for them that thinke it a charitable courtesie, in vniust warres to haue saued the liues of their prisoners whome they might haue killed, it is the charitie of theeues and pirats, who brag themselves to haue giuen life vnto them whome they haue not deprived of life. For oftentimes it commeth to passe in vniust warres, (as are for most part those that are made by the mightie) that good men are most miserably and shamefully enforced to serue the wicked. And if the vanquished haue wrongfully and without cause (as theeues) made warre, why then put they them not to death? why take they not of them exemplarie punishment? why take they them

*The former rea-
sons answered:
and slavery pro-
ued not to bee a
thing agreeable
vnto nature:*

- A** them then vnto mercie, seeing that they are theeues. As for that which is said, That seruitude could not haue continued so long if it had bene contrarie vnto nature: true it is in things meere naturall, which according to their naturall proprietie follow the immutable ordinance of God: but hauing giuen vnto man the choice of good & euill, it chaunceth oftentimes to the contrarie; him to chuse the worse, contrarie to the law both of God and nature: in whom his corrupt opinion hath so great power, that it passeth in force of a law, of greater power than nature it selfe; in such sort, that there was neuer so great impietie or wickednesse, which hath not bene esteemed for vertue and godlinesse. Let one example serue for many. We know right well that there can be no more cruell or detestable a thing than to sacrifice men, and yet there are almost no
- B** people which haue not vsed so to doe, who all for many ages couered the same with the vaile of pietie and religion: as yet vnto this our age they of Peru and Brasiles doe, and certaine other people vpon the riuer of Plat; vnto which so prophane sacrifices our auncestors for all that with great deuotion resorted. With like pietie and deuotion the Thracians also vsed to kill their fathers and mothers, growne weake with age, and so afterwards did eat them, to the end they should not languish with sicknes, nor being dead become meat for wormes; as they answered the Persian king. Neither must we say that there were none but the auntient Gauls that sacrificed men; which indeed they did vnto the time of *Tiberius* the Emperour: for long time before, the Amorits and Ammonits vsed to sacrifice their children: neither was it a solemnitie
- C** among the Barbarians onely, as generally among the Scythes (as *Plutarch* writeth) but also among the Grecks (in whome ciuilitie not onely rested, but euen from whome it was vnto all other nations deriued): for *Achilles* (as *Homer* reporteth) sacrificed vnto his dead friend *Patroclus* with the slaughtar of men. * *Themistocles* also in the Persian warre, sacrificed three men; as did the Persian king at the same time twelue: neither could *Iupiter Licinus* (as is reported) be otherwise appeased but by the slaughter of man, led by the ambiguitie of an old Oracle, and of the Greeke word *εως*, which without accent signifieth either Light, or a Man. *M. Tullius* detesteth our auncestors, for that they sacrificed with mans blood: but that he spoke as an Orator, and as best serued his cause: for *M. Varro* attributeth it to all the people of Italie: as also the manner
- D** of *vowing in the sacred spring time to haue bene, that whatsoever man or beast was that yere first borne should be sacrificed.* A man might also bring for example * *Iephthe* general of the armie of the Israelites, who is reported to haue sacrificed his daughter vnto almighty God, much about the same time that *Agamemnon* king of the Grecks sacrificed his daughter *Iphigenia* * (whereof some well learned men haue made Tragedies) although that he sacrificed nothing vnto God but the virginite of his daughter; as the Hebrew text plainly declareth; and as *Rabbi Leui*, and the other Hebrew interpreters all agree. Howbeit other people did the like with great pietie and deuotion: which proueth well that we must not measure the law of nature by mens actions, bee they neuer so old and inueterat: neither thereof conclude, that the seruile estate of slaues is
- E** of right naturall: as also much lesse to attribute it to charitie, or to courtesie, that the people in auntient time saued their prisoners, taken in warres, whome they might haue slaine; to draw a greater gaine and profit from them as from beasts. For who is hee that would spare the life of his vanquished enemy, if he could get a greater profit by his death than by sparing his life? Of a thousand examples I will produce but one. At the siege of Ierusalem vnder the conduct of *Vespasian*, a Roman souldier hauing found gold in the entrails of a Iew that was slaine, made his companions therewith acquainted, who forthwith cut the throats of their prisoners, to see if they had also swallowed any of their crownes; so that in a moment there were slaine * aboute twentie thousand of

* Cæf. lib. 6.
Bell. Gallici.

* Plut. in Themist. & Artax.

* Iud. ix.
* Euripides.

* Ieseph. in bello Iudaico.

those

those Jewes. O faire example of charitie towards captiues! But say some, they are F. nouriſhed, they are well entreated for their ſeruiſe: but how I pray you are they nouriſhed? and for what ſeruiſe doing? *Cato* the Cenſor (reputed the beſt and wiſeſt man of his time) after that he had drawne all the ſeruiſe and profit he could from his ſlaues, euen vntill they were growne crooked with age, ſo that he could wring nothing more from them, ſet them then to ſale to ſuch as would giue moſt for them, to draw yet from them the verie price of their blood which yet remained in them, leaſt he ſhould be enforced to nourish them for nought, now growne impotent with age, or elſe bee ſaine to kill them, or to ſet them at libertie; in ſuch ſort that the poore ſlaues in recompence of all their ſeruiſe made, were drawne to the gallows by their new maſters: not yet ſo happie as *Pallas* her mule in Athens, which growne old went about whither ſhe G liſt ynhaltered, no man daring in her old age to load or charge her. And whereas there is nothing more holy or more naturall giuen by God vnto mankind, than marriage; yet ſo it is, that it was not permitted vnto ſlaues: yea in caſe that a free man taken captiue had a child lawfully begot by his wife; if the father died in the hands of the enemy, although the mother returned into her libertie, yet neuertheſſe was the child reputed illegitimat.

The miſerable
eſtate and condi-
tion of ſlaues.

What ſhould I rehearſe the execrable and profuſe filthineſſe of both ſexes, which the poore ſlaues heretofore were and yet are enforced to endure and ſuffer? But as for H crueltie ſhewed vpon them, it is incredible that we read, and that a man might ſpeake of, if but the thouſand part thereof were written: for Authors would thereof ſay no- thing, if good occaſion were not giuen; and we haue not but the hiſtories of the moſt ciuill people that euer were in the world. For they were enforced to till the ground in * chaines (as yet they do in Barbarie,) and to lie in dungeons, the ladders being drawn vp from them; as they yet do in all the Eaſt, for feare they ſhould be loſt, or that they ſhould ſet fire on the houſe, or otherwiſe kill their maſters. Now as for euerie light of- fence of the ſlaue, except he were of great price, it was ſo rigorouſly puniſhed, as that to haue broken a glaſſe was vnto him death: as for example, the Emperour *Augustus* being at ſupper in the houſe of *Vedius Pollio*, it chaunced one of the ſlaues to breake a I glaſſe; who hauing done no other fault but that (as ſaith * *Seneca*) was forthwith drawn vnto a pond of Lampreis, which were fed with mans fleſh: whereat the poore ſlaue crying out, fled vnto the ſeet of *Agustus*, entreating him, not for his life, but that hee might not after he was put to death be eaten vp of thoſe fiſhes, for hee found himſelfe worthe of death for the glaſſe he had broken: but the common opinion was, that the ſoule of the drowned neuer paſſed ouer into the * Elyſian fields; or els that it died to- I gether with the body: as *Syneſius* writ of his companions ſailing to Alexandria, who in a tempeſt ſodainly riſen, ſeeing the outrageous violence of the Sea, drew their ſwords to cut their owne throats, ſo to giue way vnto the ſoule, which they thought otherwiſe to be in daunger to be drowned together with the bodie: ſo much the poore ſlaue feared to be eaten vp of the fiſhes. But *Augustus* moued with compaſſion (as ſaith *Seneca*): K pardoned the ſlaue, cauſing all the reſt of the glaſſes to be broken, and the pond to bee filled vp. Yet *Dion* the Hiſtoriographer, reporting the ſame hiſtorie, ſaith that *Auguſtus* could not obtaine pardon of *Pollio* for his ſlaue, neither to haue commaunded the pond of Lampreis to haue bene filled vp, than which nothing was more pretious amongſt the Romans: which for all that ſeemeth to haue bene more probable, ſeeing that *Seneca* confeſſeth *Augustus* to haue bene therewith contented, neither to haue bene therefore angrie with his friend *Pollio*. And to ſhew that this was no new matter more than two hundred yeares before, * *Quintus Flaminius* a Senator of Rome, cauſed one of his ſlaues to be ſlaine, for no other cauſe but to gratifie and pleaſe his *Bardache*, which

* Colum. lib. 1

* Lib. tertio de
fra.

* Vir. 6. *Æneid*

* Plut. in. vita
Titi Flamini.

A which said that he had neuer seene a man slaine . Now if it chaunced the maister to be
 slaine in his house, by whomsoever that it was, all the slaues that at the same time were
 vnder the same rooffe, were put to death euerie mothers son. As chanced at the murther
 of *Pedinius* great Pretor of Rome, when question was made of putting to death al his
 slaues, following (as saith *Tacitus*) the auntient custome, the common people being for
 the moit part men enfranchised, fell in mutinie, for that they knew well the murtherer
 was but one, & yet neuertheless there must be put to death 400 of his slaues, all inno-
 cent of the fact: neuertheless the matter being debated in the Senat, it was there resol-
 ued, That the auntient custome shuld be kept, & so accordingly al the slaues were put to
 death . I let passe the murthering of slaues, enforced to kill one another in the lists, or
 to be torne with wild beafts, so to give pleasure vnto the people, and to breed in them a
 contempt of death. And although the law *Petronia* had forbidden slaues without cause
 to be cast vnto the wild beafts: yet was it neuer obserued, no more than the edict of the
 emperour *Nero*, who was the first that appointed commissiouners to heare the com-
 plaints of slaues: and after him the emperour *Adrian* ordained that inquisition should
 be made against such as had maliciously without cause slaine their slaues: howbeit that
 long time before they were culpable as murtherers, by the law *Cornelia*: but that was
 holden in no regard, and all that the poore slaues could do to saue themselves from the
 fury of their maisters, was to flie vnto the images of the gods, or of the emperours.
 For neither the temple of *Diana* in Rome, which king *Seruius* (himselfe the sonne of a
 slaue) had appointed as a sanctuarie for slaues; neither the image of *Romulus*, which
 the Senat had of long time appointed for the selfe same purpose; neither the Sepulcher
 of *Theseus* at Athens; neither the image of *Ptolemee* at Cyrene; neither the temple of
Diana at Ephesus, could defend the slaues from the furie of their angrie lords and ma-
 sters. Howbeit that by the law of the Ephesians the slaue which without iust cause had
 fled vnto the temple of *Diana*, was againe restored vnto his master, being before sworne
 not therefore to entreat him euill: but if the cause of his flight were iust, then was he ta-
 ken from his master and made seruant to *Diana*: except women, who might not enter
 into her temple. But *Tiberius* of all other tyrants that euer were, the most craftie in his
 old age, appointed his image for a sanctuarie, propounding capitall punishment vnto
 all such as should by violence draw any slaue from the same; to the intent that by that
 meane the slaues might for the least occasion come to accuse their masters, yea euen of
 high treason. Insomuch that as *Seneca* writeth, a certaine Senator fearing to bee be-
 wraied of his slaue, craued pardon of *Tiberius* for that he had but bene about to touch
 his chamber pot with a ring vpon his finger, wherein the image of *Tiberius* was en-
 grauen. In such sort, that the images of the emperours, but especially of tyrants were
 as snares to entangle the magistrats in, who oftentimes secretly murthered their slaues,
 for hauing recourse vnto the images, so soone as they were returned thence. But the
 law of God had therefore much better provided, appointing euerie mans house for a
 sanctuarie vnto the slaue flying from his master, forbidding to restore him againe vnto
 his maister whilest he was yet in choller. For all maisters are not of like discretion to
Plato, which said to his slaue, That he would sharply haue corrected him, but that hee
 was angrie: whereas the Germans (as *Tacitus* saith) neuer punish their seruants or chil-
 dren but in their rage, and that as if they were their enemies. Thus we see the liues of
 masters not well assured against their slaues; and the liues of slaues much lesse against
 their masters. For who could assure himselfe of his life, or of his goods in the time of
 the tyrannie of *Sylla*, who had proposed thirtie Sesterties vnto free men, and vnto
 bond men liberty, as a reward if they should discover their masters, or bring in the head
 of any one of them that were by him proscribed? In which feare the citisens were, vn-
 till

* Lib. 14.

* Sene. lib. 3.
de Benef.

* Pla. in Thef.

till that threeſcore thouſand of them being ſlaine, and ſo the ſtate in a manner againe **F**
appealed, a certaine ſlaue yet preſented vnto *Sylla* the head of his lord & maſter, whom
Sylla for ſo doing according to his promiſe ſet at liberty, but by and by after cauſed him
to be caſt headlong from the rocke *Tarpeia*. At ſuch time alſo as perſecution grew hot
againſt the Chriſtians, there was no Chriſtian maſter but was in daunger of his life,
or els glad to ſet at libertie his ſlaues. But the feare of perſecution once ceaſing, the
lords and maſters themſelues became tyrants ouer their ſlaues.

To great a mul-
titude of ſlaues
daungerous in a
Commonweale.

So the ſtate of Families and Commonweals is alwaies in daunger of trouble and ru-
ine, by the conſpiracie of ſlaues combining themſelues together: all Hiſtories being
full of ſeruile rebellions and warres. And albe it that the Romans were right great and
mightie, yet ſo it was that they could not let the ſlaues to riſe againſt the ſtate in al the **G**
townes of Italie except *Meſſana*: and afterwards for all the lawes they could make,
they could not preuent but that threeſcore thouſand ſlaues riſe in rebellion vnder the
conduct of *Spartacus*, who in ſet battaile ouerthrew three armies of the Romans. For it
is moſt certaine, that in euerie country whatſoeuer, there was at leaſt ten ſlaues for one
free man: as it is eaſie to iudge by the muſters taken in Athens, where for twentie thou-
ſand citiſens were found ten thouſand ſtrangers, and ſoute hundred thouſand ſlaues.
And Italie (victorious ouer all nations) had many moe, as a man may perceiue by the
Oration of *Cæſius* the Senator, whereby he perſuaded the Senat for the confirming
of *Sylla* his decree: We haue at home (ſaid he) whole nations of ſlaues much differing
among themſelues in manners, faſhions, language, and religion. And namely **H** *M.*
Craſſus alone had five hundred ſlaues, who daily brought in vnto him the profit of
their gainfull arts and trades; beſides them whome he employed in his ordinarie and
domestiſtall ſeruice. *Milo* alſo in one day ſet at libertie 300 ſlaues, leaſt they ſhould
haue bene put to torture to depole concerning the death of *Clodius* Tribune of the
people. And that multitude of ſlaues was it for which the Roman Senate, deſirous to
put a difference in the habit of ſlaues, to the intent to haue them knowne from free
men: one of the graueſt Senators diſſuaded the ſame, ſhowing the daunger like to en-
ſue thereof, if the ſlaues ſhould begin to enter into the number of themſelues; for that
ſo they might eaſily diſpatch themſelues of their maiſters, for the eaſineſſe of their riſing
into rebellion, and the difference of their habits. Vnto which daunger **I** *Aſtricke* & ſome
part of Spaine ſhould be ſubiect, if there were ſuch a multitude of ſlaue as in times paſt:
for that they marked their ſlaues in the face, which they did not in auncient time, except
ſuch of them as were villanous and ſturdie knaues, who were thercof called *Stigmatic*;
who at any time beeing manumifed, could for all that neuer enioy the full fruit of
their libertie or the priuelege of citiſens: marking the reſt vpon their armes. And this
was it for which the Lacedemonians ſeeing their ſlaues to multiply exceedingly aboue
the citiſens (for the hope their maſters gaue them of libertie which could get moſt
children, and for the profit euery man drew out of them in particuler) made a decree
that three thouſand of them ſuch as had the moſt able bodies ſhould bee taken vp for
the warres: whome ſo preſſed out, they forthwith cauſed to be all in one night ſlaine, **K**
and that ſo ſodainly and ſecretly, as that no man knew what was become of them,
more than they which had the doing of the matter.

Why ſlaues were
not ſuffred to
beare armes.

Now this feare that Cities and Commonweals had of their ſlaues, was the cauſe
that they neuer durſt ſuffer them to beare armes, or to be enrolled in their muſters, and
that vpon paine of death: and if by neceſſitie they were conſtrained to take their ſlaues,
they at the ſame time freely ſet them at libertie. As did *Scipio Africanus* the Greater,
who after the great ouerthrow of Cannas manumifed 300 of his ſlaues, al able bodies.
Howbeit that *Florus* writeth, That arms were giuent to 8000 ſlaues; which we alſo read

A to haue bene done in the confederat warre. But *Cleomenes* king of Lacedemonia finding himfelfe vnable to withftand the multitude of his enemies, as alfo of his flauers, his citifens being for the moft part flaine; in his fo great neceffitie proclaimed libertie to al fuch flauers as were able to pay fiftie crownes for their heads: in which doing he provided himfelfe both of fouldiors and money. Yea not fo much as the effeminate people of Asia vfed their flauers in warres, except the Parthians, who might not by their lawes manumife their flauers, whom they made almoft as much of as of their children: whereby they grew into fuch a multitude, that in their armie wherwith they put to flight the power of *M. Antonius*, confifting of fiftie thoufand men, there was but 4500 free men, as we read in *Iuftin*: yet had they no caufe to rebell, being of their mafters fo well entreated. But as for other people, they were fo miftrufffull of their flauers; as that ſometimes they would not haue them to ferue in their gallies before they were enfranchifed: as did *Auguftus*, who at one time fet at libertie twenty thoufand to ferue him in his gallies. And for feare they had leaft they fhould confpire together againft the ftate, to keepe them alwaies bufied in other mechanicall arts, *Lycurgus* amongft the Lacedemonians, and *Numa Pompilius* in Rome, forbad their owne citifens to vfe any manuall occupation: And yet they could not fo well provide, but that euer there was fome one or other desperat man, who propounding libertie vnto flauers, ftill robbed the State. As *Viriatius* the Pirat, who made himfelfe king of Portugall: *Cinna*, *Spartacus*, *Tacfarinas*, and *Simon* the fon of *Gerson*, captaine of the Iewes, who all of bafe companions made themfelues great lords, by giuing libertie vnto the flauers that followed them. And the ciuill warres yet continuing betwixt *Auguftus* and *M. Antonius*, was not to be feene but fugitiue flauers ftill on the one fide or the other: in fuch fort, as that after the difcomfiture of *Sex. Pompeius*, there were found thirtie thoufand flauers which had taken part with him, whome *Auguftus* caufed to be apprehended through his dominions; and by a prefixed day to be againe reftored vnto their mafters, commaunding the reft to be hanged that had no mafters to lay claime vnto them; as we read in *Appian*. And in truth the power of the Arabians grew by no other meanes. For as foone as *Homar* one of *Mahomets* lieutenants, had begun to raife warre in Arabia, and promifed libertie vnto the flauers that fhould follow him, he drew fuch a number after him, that in few

D yeares they made themfelues lords of all the Eaft. The fame of which libertie, and the conquests made by thofe flauers, fo encouraged the flauers of Europe, that they began to take vp armes, firft in Spaine in the yeare 781, and afterward in Fraunce in the time of *Charlemaigne*, and of *Lewes* the godly; as is to be feene by their Edicts then made againft the conspiracie of flauers. And after that alfo *Lothaire* the fonne of *Lewes*, hauing loft two battels againft his brethren, called the flauers vnto his aid with promife of libertie: who afterwards gaue the ouerthrow vnto their mafters in the yeare 852. When fodaynly this fire took fuch hold in Germanie, where the flauers hauing taken vp armes, fo troubled the ftate of the German princes and cities, that *Lewes* king of Almans was constrained to raife all his forces to fubdue them.

E And this was the caufe that the Chriftian princes by little and little releafed their feruitude, and enfranchifed their flauers, referuing onely vnto themfelues certaine feruitces, and the auncient right of fucceffion, if their enfranchifed flauers fhould chance to die without iffue: a cuftome yet in vfe in all the lower Germanie; as in many places in Fraunce, and England alfo. For as yet many remembrances of bondage remaine in the Chriftian Commonweale: as is to be feene in the lawes of the Lombards & Ripuaires whereby flauers could not haue their iuft libertie, or alienat their goods, vnill they had bene twice manumifed: and oftentimes the lord or mafter ioyned vnto the act of enfranchifement, That it was done for the health of his foule. For they which firft laid the

* Appian. in
bellis ciuilib.
* Iof. in bello
Iudaico. e

The caufe why
Chriftian princes
by little and little
releafed their
flauers.

foundation of the Christian Commonweale, had nothing in more regard, than to find the means how Christian slaues might be set at liberty: so that in hope therof many of them oftentimes became Christians; & their masters for the health of their souls were content so to enfranchise them. VVee also read in the Histories of Africk, how that *Paulinus* bishop of Nolo, after hee had sold all his goods to redeeme Christian slaues, at last (which a man would wonder at) sold himselfe also vnto the Vandales for his brethren. And hereof came the manumission of slaues made in churches before the bishops. Whereof, in the raigne of *Constantine* the Great, ensued such a multitude of poore and needie men, who had nothing but their libertie to liue vpon (of whome the most part would do nothing, and the rest could do nothing) as that cities were with nothing more charged than with them. Hereof, began the almes-houses, and hospitals, for the reliefe of little children, of the aged, of the sicke, and of them that could not labour, to be erected and endowed by the Christian princes, at the requests of the bishops. Hereof *S. Basil* in his sermons complaineth, that the cries and gronings of the poore and weake were in the Churches confounded and mingled with the songs and prayers of the Priests. Much about which time *Julian* the Apostata in despite of the Christians *exhorted the Pagan bishops by the example of the Christians to the building and endowing of almes-houses and hospitals for the reliefe of their poore. And for that poore men set at libertie, did oftentimes lay forth their children to bee brought vp of the charitie and liberalitie of the Christians: *Gratian* made a law, That the children so exposed and left vnto the world, should be slaues vnto them that had so nourished and brought them vp. And not long after, *Valens* the Emperour by an Edict gaue power to euerie man to take vp the vagrant and idle persons, and to cause them to serue them as slaues; forbidding also and that vpon paine of death, any to goe into the woods or deserts there to liue as Hermits; of whome he caused a great number which had contrarie to his Edict so gone out, to be executed; to the intent to cut off idlenesse, and to draw euerie man vnto labour. But after that Idolatrie began to decay, and the Christian religion to encrease, the multitude of slaues began also to diminish; and yet much more after the publishing of the law of *Mahomet*, who set at libertie all them of his religion. To the imitation of whome, the Christians also so frankly set at libertie their slaues, as that all seruitude and slauerie seemed in that age to haue bene shut vp with the West Indians, wherein the Christians had shaken off from their necks all bondage, about the yere 1250: yet for all that, that there were slaues in Italie in the yere 1212, it is euident, as well by the lawes of *William* king of Sicilie, and *Frederick* the second Emperour; as also by the decrees of the bishops of Rome, *Alexander* (I say) the third, *Vrbane* the third, and *Innocentius* the third, concerning the mariages of slaues, which the Lawyers call *Contubernia*, or keeping of companie together: which *Alexander* was chosen Pope in the yere 1158, *Vrbane* in the yere 1185, and *Innocentius* in the yere 1188. Whereby it is euident, the Christian Commonweale to haue bene cleere of slaues since the yere 1250, or there about. For *Bartholus* who flourished in the yere 1300, writeth that there were no slaues in his time; and that by Christian lawes men might no more sell themselues, vnderstanding the Edicts made by the Christian princes: which when *Nicholas* the Sicilian, otherwise called the Abbot of Panormo had learned of *Bartholus*, he thought it a thing well worth the noting. Neuerthelesse we read in the Historie of Polonia, that euerie prisoner taken in good warre, was then and long time after slaue vnto him that had taken him, if the king would not pay two Florins for his head, as I haue before said: and yet at this present the subiects bound vnto the soyle whereon they were borne, which they call *Kmetos*, are in the power of their lords, who may at their pleasure kill them, and not bee called

The beginning
of almes houses
and hospitals.

* Nicephorus.

A time wherein
there were no
slaues in the
Christian Com-
monweale.

- A** into question therefore : and if so be that they kill another mans subiect, then are they acquitted by paying ten crownes ; the one moitie to the lord, and the other moitie vnto the heires : so as we read in the lawes of Polonia ; which are the like in the kingdoms of Denmarke, Sweden, and Norway . But it is more than 400 yeares agoe, since that Fraunce suffered in it any true slaues : For as for that which we read in our histories, that *Lewes Hutin*, who came to the crowne in the yeare 1313. (the selfe same time that *Bartholus* liued) set at libertie all slaues for money, to defray the charges of his warres ; that is, as I take it, to be vnderstood of manumised men, which we call *Mort-maines*, whome we euen yet at this present see to be set at libertie by the kings royall letters patents, from that bond of seruitude wherby they are prohibited to marrie a wife, or to
- B** alienat their goods out of the territories of their Patron . So also we are to vnderstand the edict of *Charls* the fift the French king, wherein in cities euery 70 families, in country villages euery hundred families, and euery 200 heads of slaues, were be charged with a man at armes ; which they should not haue done if they had bene in the possession of another man, & accounted as another mans goods. So it is also to be vnderstood that is written of *Humbert Dauphin*, who at the same time by one edict enfranchised all the slaues of Dauphine, and commaunded the same to be enrolled in the publick acts and lawes of the countrey . The same curtesie vsed *Theobald* countie d'*Blois* towards his slaues, in the yeare 1245 . To this also belongeth that which wee read of *Sugerius* abbot of the couent of *S. Dionyse*, who set at libertie his manumised slaues, so that they
- C** chaunged their dwelling . And also the auntient decree of the Parliament of Paris, whereby it was permitted to the bishop of Chalons, by the consent of his Chapter, to enfranchise his slaues : *Charles* the seuenth also comming to the crowne in the yeare 1430 enfranchised diuers persons of seruile condition : And in our memorie king *Henry* the second by his letters pattents enfranchised them of *Burbonnois*, in the yere 1549 . By whose example also the duke of Sauoy did the like in all his countries, in the yeare 1561 . All which we see done in the great fauour of libertie . Whereas otherwise the Prince, of his owne lawfull power could not enfranchise another mans slaue, and much lesse the magistrat, what intercession focuer the people should make : neither could he so much as giue vnto him that was by another man enfranchised, so much as leaue to
- D** weare a ring of gold, without the consent of his patron : For *Commodus* the Emperour by his edict tooke from all them their rings of gold, who had obtained that priueledge of the prince without leaue of their Patron : neither would he haue it any thing preiudiciall vnto the Patron, that his enfranchised slaue had obtained of the prince this priueledge, albeit that the prince had restored him to the state of a free borne man : which was a far greater matter than to haue obtained the priueledge to weare a ring of gold : which albeit that it belonged vnto the prince onely to grant, yet so it was neuerthelesse in the time of *Tertullian*, that the patrons had in a manner got that power vnto themselves, giuing vnto their enfranchised slaues a ring of gold and a white gowne, in stead of yron giues and whips, causing them so attired to sit downe at the table with them, and to beate their name : And at last *Iustinian* himselfe by a generall edict restored all them that had bene slaues enfranchised vnto the state of free borne men ; so that for the confirmation thereof they needed not afterwards any the princes charter . Which law for all that we vse not : for in * this realme he must of necessitie obtaine the prince his letters patents, which haue alwaies vsed to restore vnto manumised men and of seruile condition, the state of free borne men, and to blot out all the staine of their old slaerie ; which letters were woont to be both requested and obtained without the leaue of the patron, who for all that may lay hands vpon such goods of his enfranchised slaue as were got before he was set at libertie where focuer they be ; as not long since
- E**

*When slaues
ceased in France*

* Tertul. in de
resurrection.

* viz. France.

was adiudged by the court of Paris: as for such things as they get afterwards they may hold them to themselves; and having no children, by their testaments bestow them upon whome they please. I have seene the lord of the White Rocke in Gascongue claime to haue not onely a right ouer his manumised subiects, and also that they were bound to trimme his vines, to till his grounds, to mow his meddows, to reape and thresh his corne, to carrie & recarrie whatsoeuer he should command them, to reape and his decayed house, to pay his ranfome, and also the foure accustomed payments vsed in this realme; but also that if without his leaue they should chaunge their dwelling places wherein they were borne, or depart out of his land, hee might lead them home againe in an halter: vnto all which the aforesaid seruices his manumised people yeelded, sauing vnto the last, which by a decree of the Parlement of Tholouze was cut off, as preiudiciall vnto the right of libertie. Truly they whome the Polonians call Kmettons, are not compelled to do their patrons so great seruice; but yet suffer things much grievous: for that any man may kill them for the small paiment of ten crownes, and their lord may so doe for nothing. And in former time it was lawfull amongst the Indians by all meanes to tyrannise vpon their seruants, which were in number infinit, yea and to kill them also; vntill that *Charles* the fift by a law which he made commanded then all to be free. But in Fraunce, although there be some remembrance of old seruitude, yet is it not lawfull there to make any slaue, or to buy any of others: Inso-much that the slaues of strangers so soone as they set their foot within Fraunce become franke & free; as was by an old decree of the court of Paris determined against an ambassador of Spain, who had broght a slaue with him into France. And I remember that of late a Genua marchant hauing brought with him vnto Tholouze a slaue whome he had bought in Spaine, the hoast of the house vnderstanding the matter, perswaded the slaue to appeale vnto his libertie. The matter being brought before the magistrats, the marchant was called for; the Attorney general out of the records showed certaine auintient priueledges giuen (as is said) vnto them of Tholouze by *Theodosius* the Great, wherein he had granted, That slaues so soone as they came into Tholouze should be free. The marchant alledging for himselfe that he had truly bought his slaue in Spaine, and so was afterward come to Tholouze, from thence to goe home to Genua, and so not to be bound to the lawes of Fraunce. In the end hee requested that if they would needs deale so hardly with him, as to set at libertie another mans slaue, yet they should at least restore vnto him the money hee cost him: whereunto the Iudges answered, That it was a matter to be considered of. In the meane time the marchant fearing least he should loose both his dutifull slaue and his money also, of himselfe set him at libertie, yet couenancing with him that he should serue him so long as he liued. Yet for all that, those priueledges which they of Tholouze boast to haue bene granted them by *Theodosius*, seeme not to haue bene so, seeing that Narbona a true Colonie of the Romans, and the most auintient that was in Fraunce, Lectore, Nysmes, Vienne, Lyons, Arles, Romans, and many others, which were also Roman Collonies, no nor Rome it selfe the verie seat of the Empire, had not any such priueledge. And thus much concerning the enfranchising of slaues.

But now here might a man say, If it be so that the Mahometans haue enfranchised all the slaues of their religion, which hath course in all Asia, and almost in all Africke; with a good part of Europe also; and the Christians haue semblably done the like (as we haue before showed :) how commeth it to passe that yet the world is so full of slaues and slauerie? For the Iewes may not by their lawes haue any slaue of their own nation, neither by the lawes of the Christians may they haue any Christian. Truly all in that swerue from the law of God: For the law of God forbiddeth any slaue to

Slaues by coming into France become free.

How it commeth to passe that yet there be so many slaues in the world.

- A be made by the order of the Israelites amongst themselves, except that any of them shall of his owne accord giue himselfe in bondage to another, and suffer his eare to be bored through to a post with an aule: truly it adiudgeth the debtors vnto * the creditors, and suffereth the Iewes to bee sold for pouertie: yet the same law commaundeth them at the seuenth yeare to be set at libertie. And although a man haue enthralled himselfe, and suffered himselfe to be thrust through the eare with an aule, insomuch that he be bound to perpetuall seruitude: yet neuerthelesse all the interpreters of the law affirme, That in the yeare of Iubiley he shall againe recouer his libertie, except he had rather againe serue than become free. But such bondslaues as were borne of those kind of slaues which had of their owne accord giuen themselves into bondage, they were in the fiftith yeare to be set free: at which time the law by * the sound of trumpet denounceth libertie vnto all manner of slaues. Yet doth the law permit them to haue straungers, of another nation and religion than their owne, in perpetuall bondage; and that their posteritie and nephews might vse the same right against straungers, that straungers might against the Israelites: than which kind of slaues *Iulian* the Emperour writeth none to haue bene better. You see (saith he) how willingly the Syrians serue other nations: and contrariwise what a loue of libertie is in the people of the Celtes. But the Iewes when they had bought any straunge bond-slaues of the Christians, or of the Pagans, they instructed them in their owne religion, and so circumcised them: which thing *Traian* by a speciall law forbad: and albeit that they had yeelded vnto their lords or maisters religion, yet neuerthelesse they enforced them still to serue: Whereas by * the law it was provided, that such straungers as being circumcised had receiued the law of God, should enioy the same priuiledges and benefits that the natural citisens did. The same law (saith it) shal be vnto the stranger & the citisen. That is it that God by the Prophet *Ieremie* * complaineth of, Slaues not to be set at libertie according to the law: and therefore a most heauie bondage to hang ouer the maisters heads from their enemies. Hereupon also *Philip* the French king draue the Iewes out of his kingdome, confiscating their goods, for that contrarie vnto the law they circumcised Christians, and tooke them vnto themselves into bondage for slaues. The like deceit we see the Mahometans to vse, whose manner is to circumcise and to instruct in their religion such Christians as they haue taken in warre, or bought of pirates, or at leastwise their children, whome neuerthelesse they compell to serue with all their children and posteritie. Whose example the Portingals following, compell the bondmen whome they haue bought out of Africke, to abiure the Mahometan religion, and instructing them in the Christian religion, cause them neuerthelesse with their children and ofspring to serue them in perpetuall slaue-rie: so that now whole droues of slaues are sold and that openly in all parts of Portugall, as if they were beasts. In like manner the Spaniards hauing brought the Neigros vnto the Christian religion, keepe them neuerthelesse and all their posteritie for slaues. And albeit that *Charles* the fift had by a generall edict made in the yeare 1540 set at libertie all the slaues of the West Indies, neuerthelesse a sedition there rising through the couetousnesse and insolencie of them that were in greatest power, *Gonsales Pizzare* gouernor of that prouince reuolted from *Charles*: whose power when *Lagasca* had discomfited, and for publike example had caused him to be beheaded together with the chiefe men of that rebellion, hee according to the edict, set at libertie all the slaues; yet with condition, that they should still serue their patrons. And yet for all that it could not be brought to passe, but that *Lagasca* returning into Spaine, these late enfranchised men fell againe into their slaue-rie: and especially for the profit which their lords and masters were in hope to haue by the selling of them: to the imitation of the Portugals, who first called in againe Serui-

* Exod. 21.
* Deut. 15.* Leuit. 25.
Hierom. 32.
Num. 13.* Exod. 12.
Numer. 49.

* Hier. 34.

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*The Portugals
the first that
cal'd in slavery
again into
Europe.*

tude, now for many worlds of yeares buried in forgetfulnesse in Europe; and are in F
short time like enough to disperse the same ouer all Europe, as it is now alreadie begun
in Italie. For now a good while ago Africa and Asia, and the Easterne part of Europ
also haue accustomed to nourish and bring vp in euery citie, stocks of slaues, in like ma-
ner as if they were beasts, and of them to make a great marchandise and gaine. For
within this hundred yere the Tartars (a kind of Scythian people) in great number with
fire and sword entring into the borders of Moscouia, Lituania, and Polonia, carried
away with them three hundred thousand Christians into captiuitie. And not long
ago euen in our memorie, *Sinan Bassa* hauing taken the Isle of Gozo neere vnto Mal-
ta, led away with him 6300 Christians, and all the inhabitants of Tripolis in Barbarie,
which he sold in Gracia. So that it is not to be maruelled that the captaine of the G
Turkes Ianizaries, and either of his Chauncellors (whome they call Cadelesquiers) vse
euerie one of them at their entrance into their office to receiue of the prince three hun-
dred slaues. For as concerning the Turkes Pretorian souldiors; and those youths
which are taken from the Christians as tribute, and are called tribute children, I neuer
accounted them for slaues; seeing that they are enrolled in the princes familie, and
that they alone enioy the great offices, honours, priesthoods, authoritie and honour;
which nobilitie extendeth also vnto their nephewes in the fourth degree, and all their
posteritie afterward beeing accounted base, except by their vertue and noble acts
they maintaine the honour of their grandfathers: For the Turkes almost alone of all
other people measure true nobilitie by vertue, and not by discent or the antiquitie of H
their stocke; so that the farther a man is from vertue, so much the farther hee is (with
them) from nobilitie.

*No man noble a-
mong the Turkes
but for his valor
or his vertue.*

Wherefore seeing it is proued by the examples of so many worlds of years, so ma-
ny inconueniences of rebellions, seruile warres, conspiracies euerfions and chaunges to
haue happened vnto Commonweals by slaues; so many murthers, cruelties, and dete-
stable villanies to haue bene committed vpon the persons of slaues by their lords and
masters: who can doubt to affirme it to be a thing most pernicious and daungerous to
haue brought them into a Commonweale; or hauing cast them off, to receiue them
again? Now if any man shall say, That the rigour of the lawes may by for-
bidding, and senere punishment moderat the cruelty of maisters ouer their slaues: I
What law can there be more iust, more strong, and indifferent, or better than the laws
of God, which hath so wisely prouided as to forbid to chastise slaues with whips (which
the Roman lawes permitted) and willeth the slaue to be enfranchised, if his maister shal
breake any lim of him? which law *Constantine* the Emperour afterward approued.
But who shall prosecute the suite against the lord for the death of the slaue? who shall
heate the complaint? who shall exact due punishment therefore? shall hee that hath
nothing to do therewith? considering that tyrants hold it for a rule in policie, That one
cannot be too seuerẽ vnto his subiects, so to keepe them low and obedient. But the
Spaniards (some will say) entreat their slaues courteously, teach them, and bring them
vp, yea and that much more kindly than they do their hired seruans: and they againe K
on their part serue their lords and masters with all chearefulness and loue incredible.
But concerning the Spaniards it is a common saying, That there are no maisters more
courtious than they at the first; as generally all beginnings are pleasing: so also it is
most certaine, That there is no greater loue, than the loue of a good slaue towards his
lord: prouided that it meet with an humor agreeing with it selfe. For which cause the
law of God (in mine opinion) hath so wisely prouided that no man should serue a per-
petuall seruitude, but he which hauing serued seuen yeres, and so well tasted the humor
and disposition of his master or creditor, had consented to bee his slaue for euer. But

*Reasons for the
bringing in a-
gain of slavery
answered.*

such

- A sith there are so few men one like vnto another; and contrariwise the varietie and naturall disposition of them infinit, what law giuer can vnto them all prescribe one generall edict, law, or rule. The auntient prouerb, which saith, *So many slaues, so many enemies in a mans house*, sheweth right well what friendship, faith and loyaltie a man may looke for of his slaues. Of a thousand examples of antiquitie I will recite but one, which happened in the time of *Iulius Pontanus*, who reporteth, That a slaue seeing his lord absent, barred the gates, and hauing shamefully abused his mistresse, bound her, tooke his maisters three children, and so going vp to the highest place of the house, seeing his maister comming home, first cast downe vnto him vpon the pauement one of his children, and after that another: the wofull father all dismaid, and fearing least hee should throw downe the third likewise, with prayers and teares besought the slaue to spare him that was yet left, promising him forgiuenesse for that hee had alreadie done, and libertie also if he would but saue that third. Which his request the slaue yeelded vnto, vpon condition that he should cut off his owne nose: which he chose rather to doe, than to loose his child. But this done, the slaue neuerthelesse cast downe the third child also; and so at last to take that reuenge of himself, which his lord thought to haue done, cast headlong downe himselfe also. And not to be tedious, I omit poysonings, murders, burnings, and many other mischiefes oftentimes euerie where done by slaues. But these inconueniences, you will say, are counteruailed and recompensed with other mutuall profits; for that by receiuing in of slaues we cut off the infinit number of vagabonds and bankrupts, who after they haue deuoured al, would pay their creditors with bills: & that by that means might be driuen away such a multitude of rogues & naughty doers, which eat vp whole townes, and as drones sucke the hony from the bees: ioyned also vnto this, that of such idle mates, theeues and pirats furnish themselves; besides that, famine and euil prouision for the poore, draw into townes all populer diseases; for the poore we must nourish and not kill, although it be in a sort to kill them, to refuse to nourish them (as saith *S. Ambrose*.) These reasons beare some show of truth. For as concerning debtors, if they be not able to pay, God his law commaundeth them to be adiudged to their creditors for seuen yeares, but yet not into perpetuall bondage: howbeit that the law of the twelue tables, practised in all the West Indies, and in the greatest part of Africke, will that they remaine still prisoners vnto the creditors, vntill they be fully satisfied. For they which haue taken away from debtors in ciuil cases the benefit, to leaue vnto their creditors all such goods as they had, and command them to be committed not to their creditors, but to prisons, as the Turkes do; seeme to mee to take away not onely from the creditors, but also from the debtors, all power to keepe themselves, yea and their liues also, as taking from them the meane for them to trauell, and to gaine to acquit themselves. But as for theeues and pirats, there was neuer in any time moe than when the multitude of slaues was encreased: For that the slaue not able to endure slauerie, and at length breaking from his maister, was alwaies constrained to be a theefe or a pirat, not being able to endure his maister, neither to show himself being marked, nor to liue hauing nothing to liue vpon. A better example whereof cannot be than that of *Spartacus* the fenfor, who at one time assembled out of the verie bowels of Italie three score thousand slaues; when as at the same time about fourescore thousand pirats with nine hundred saile of ships were rousing ouer all the Mediterranean, and had with so great forces taken 400 cities vpon the sea coast; as that the Roman Empire was both by land and sea as it were beset with theeues and robbers. But the wise law giuer is not hee that driueth robbers out of the Commonwealth, but he that suffereth them not therein to enter: which may easily bee done without that direfull slauerie, so dreadfull vnto states and cities; by erecting in euery towne and ci-

An horrible example of the crueltie of a faithlesse slaue.

Reasons for the maintaining of slauerie in a Commonwealth.

The same reasons answered.

tie publick houses for poore children, where they may learne diuers trades and occupations, as they do in Paris, Lions, and Venice, and other well gouerned towns, where Seminaries of Artizans are brought vp to the great benefit of the Commonweale. But in such places as wherein slaues are now alreadie receiued, I am not of opinion to haue them altogether and at one time set at libertie, as *Charles* the Emperour did at Peru: for that so they hauing nothing to liue vpon, nor occupation to gaine by, and delighted with the sweetnesse of idlenesse and libertie, would take no paines: in such sort that the most part of them died for hunger: but the best way is, by litle and litle to enfranchise them, hauing before their enfranchisement taught them some occupation whereby to releue themselues. Now if some shall say, That no man is a good maister, but he that hath before bene a good seruant: I say that to be an opinion euill grounded, although it be right auintient: for there is nothing that doth more discourage and ouerthrow, (and if I may so say) a bastardise a good and noble mind, than seruitude; or that doth more abate the naturall maiestie of good natures to commaund ouer others, than to haue bene once a slaue. *Salomon* also the maister of wisdom saith in his Prouerbs, That there is nothing more intollerable, than when a slaue is become a maister, or a handmaid a mistresse: which he referreth not only vnto a more misticall fence; as when our intemperat desires beare rule ouer our reason: but vnto him also which sodainly passeth from one extremitie to another; as from seruitude to commaund. But if it be true that reason and the law of God is alwaies and euerie where to take place, and that it was not shut vp only within the bounds of Palestine: why should not that law so profitably & so wisely made by God himselfe, concerning slauerie & libertie, stand in force, rather than that which was by mans wisdom deuised? Howbeit that the Tartars (which are by many thought to bee descended from the ten tribes of Israel) haue alwaies enfranchised their slaues at the end of seuen yeres: yet with condition that they should depart out of their country: which condition was first by *Papinian* (the great lawyer) reiected, but afterwards by him againe receiued; but beeing ioyned vnto enfranchisements, is accounted as if it were not written at all. And thus much concerning the power of a maister ouer his slaue, and whether slaues are to be suffered in a well ordered Commonweal. But now that we haue sufficiently, & yet also as briefly as was vnto vs possible, entreated of a Familie, & of all the parts therof, which is the foundation of the whole comonweale: let vs now likewise also speak of a Citisen & a City.

*The old saying,
That no man
can be a good
maister, but he
which hath be-
fore bene a good
seruant, refused.*

CHAP. VI.

What a Citisen is, and how much Citisens differ from Citisens, and how much from strangers: what also is to be understood by the name of a Towne, a Citie, and of a Commonweale.



Hat we haue before said concerning a whole Familie, and euery part thereof, containeth in it the beginning of all Commonweals. And as foundations can of themselues stand without the forme of an house, before the walles be built higher, or any rooffe laid vpon them: so also a Familie can of it selfe be without a Citie or a Commonweale: and so can also the maister of a Familie vse his power and command ouer his household without depending of the power of any other man: as they say there are many such families in the frontiers of the kingdomes of Fes and of Marocco, and in the West Indies: but a Commonweale can no more be without a Familie, than a Citie without houses, or an house without a foundation. Now when the maister of the Familie goeth out of his owne house where he commaundeth, to entreat and trafficke with other heads

- A of Families, of that concerneth them all in generall, he then loaseth the title of maister, head, and lord, to be a companion, equall and fellowlike with others, leauing his familie to enter into a Citie, and his domesticall affaires to entreat of publick; and in stead of a lord calleth himselfe a Citisen, which is no other in proper tearmes than *A free* The definition of a Citisen. *subiect holding of the soueraigntie of another man*. For before there was either Citie or citisen, or any forme of a Commonweale amongst men, euerie master of a familie was a maister in his owne house, hauing power of life and death ouer his wife and children: but after that force, violence, ambition, couetousnesse, and desire of reuenge had armed one against another, the issues of warres and combats giuing victorie vnto the one side, made the other to become vnto them slaues: and amongst them that ouer-
- B came, he that was chosen cheefe and captaine, vnder whose conduct and leading they had obtained the victorie, kept them also in his power and commaund as his faithfull and obedient subiects, and the other as his slaues. Then that full and entire libertie by nature giuen to euery man, to liue as himselfe best pleased, was altogether taken from the vanquished, and in the vanquishers themselues in some measure also diminished, in regard of the conquerour; for that now it concerned euerie man in priuat to yeeld his obedience vnto his chiefe soueraigne; and he that would not abate any thing of his libertie, to liue vnder the lawes and commaundement of another, lost all. So the word of *Lord* and *Seruant*, of *Prince* and *Subiect*, before vnknowne vnto the world, were first brought into vse. Yea Reason, and the verie light of nature, leaderth vs to beleue very
- C force and violence to haue giuen course and beginning vnto Commonweals. And albeit that there were no reason therefore, it shal be hereafter declared by the vndoubted testimonies of the most credible historiographers, that is to say, of *Thucydides*, *Plutarch*, *Cesar*, & also by the laws of *Solon*, That the first men that bare rule, had no greater honour and vertue, than to kill, massacre and rob men, or to bring them in slauerie. These be the words of *Plutarch*. Yet haue we more also the witnesse of the sacred history, where it is said, that *Nimroth* the nephew of *Cham*, was the first that by force and violence brought men into his subiection, establisshing his kingdome in the countrey of *Affyria*: and for this cause they called him the *Mightie hunter*, which the Hebrews interpret to be a theefe and robber. Which thing also *Philo* the Iew, and *Iosephus* by their testimonies confirme, viz. *Nimroth* by his wealth and power to haue first exercised tyrannie. Wherein it appeareth *Demosthenes*, *Aristotle*, and *Cicero*, to haue mistaken themselues, in following the errour of *Herodotus*, who saith, That the first kings were chosen for their iustice and vertue; and haue hereof faigned vnto vs I wot not what heroicall and golden worlds: an opinion by me by most certaine arguments and testimonies elswhere refelled; seeing that the first Cities and Commonweals, long before the time of *Abraham* were full of slaues: as also not long agoe the Westerne islands did swarme with them at such time as the Spaniards subdued them: a thing that could not possibly be, but by extreame violent forcing the free lawes of nature. And it is not yet past seuentie yeares that the people of *Gaoga* in *Africke* had neuer
- E felt or heard of any king or lord whatsoeuer, vntill that one amongst them a trauellor had in his trauell seene and noted the maiestie of the king of *Tombut*: and thereupon conceiuing a desire to make himselfe a king also in his owne countrey, hee at first to begin withall, killed a rich marchant; and so possessed of his horses armes and marchandise, diuided them amongst his nie kinsfolks and friends, acquainted with his purpose; by whose aid he by force and violence subdued now some, and after others, killing the richest, and ceasing vpon their goods: in such sort that his sonne became rich with the robberies of his father, made himselfe king, whose successor hath so continued after him in great power, as we read in *Leo* of *Africke*. This was the beginning of the
- That violence and oppression gaue the beginning vnto Commonweals.
- That kings were not first chosen for their iustice and vertue.

the kings of Gaoga, which in short time greatly encreased.

A Citizen must
be a free subiect.

Slaves not to bee
accounted Citi-
zens.

* Cice. offici-
orum lib. 1.

The diuision of
subiects.

Why Fabius
was called Maxi-
mus.

And thus much concerning the beginning of Commonweals, which may serue to manifest the definition of a Citisen, by vs before set down, to be true, which is no other thing to say, but *A free subiect holding of the soueraigntie of another man.* A free subiect I say, for albeit that a slaue be much more subiect vnto the commaund of the highest authoritie than a free man; yet so it is, that al people haue alwayes with their common consent agreed, That a slaue is no Citisen, and in questions of right is accounted no bodie; which cannot truely be said of mens wiues and children, who are free from all seruitude and bondage; albeit that their rights and liberties, and the power to dispose of their owne goods, be from them in some sort cut off by the domestically power: in sort that a man may say, that euerie Citisen is a subiect, some small part of his libertie being diminished by the maiestie of him to whome he oweth obeyfance. But euerie subiect is not a Citisen, as we haue said of a slaue; and may also so say of a stranger, who comming into an other mans seignorie, is not receiued for a Citisen, hauing not any part in the rights and priueledges of the Citie; neither is to bee accounted in the number of friends, allies, or coallies, who are not altogether straungers, (as the Lawyer saith) neither enemies also. Howbeit that the Greeks of old called straungers enemies, as also did the Latines, which *Cicero* hath noted out of the law of the twelue tables; The mildnesse of the word (saith he) mitigating the hardnesse of the thing: and they were called enemies which had conspired against the state. And it may well bee also that those whom we yet by a common word cal *Hotes*, or *Hofes*, were in antient time nothing els but straungers. But men haue since corrected the proprietie of words, the forme of speech still remaining: for the Greeks haue called their enemies *πολεμους*, as men making warre vpon them; and straungers *Ξεuous*, which signifieth not pilgrims (as saith *Acurfius*) but straungers, be they another mans subiects, or themselues soueraignes in their owne countrey.

Now amongst them whome we said to be subiects vnto publick empires and soueraigne power; some are naturall, some are naturallised; and of them which are naturall some are free borne, some are slaues, and these slaues being set at libertie, in an instant become Citizens, whereas straunger slaues be not so. Yet true it is that the enfranchised slaues in Greece were not admitted to be Citizens, although that they were of the same countrey, and naturall subiects. For the request of *Demosthenes* the Orator, which he made vnto the people after the great ouerthrow at Cherronæa, That all the inhabitants of Athens, as well the enfranchised as others, might be accounted Citizens; was reiected and denied, for feare least the enfranchised men (of whom there was a great multitude) should become lords of their estate, and with the number of voyces exclude the naturall Citizens from all honours and promotions; which the greatest number still carried away: which thing the Romans at the first not regarding, had almost before they were aware fallen into the power of the enfranchised men, had not *Fabius Maximus* in good time foreseene the matter, and thrust the multitude of the enfranchised men, before dispersed amongst all the tribes, into foure tribes apart by themselues; to the intent that one and thirtie tribes of the free borne men and antient Citizens, might stil with the number of voices preuaile: for they counted not in Rome their voyces by the poll, as in antient time they did at Athens, and now doe also at Venice; but by degrees and centuries, in the assemblies of their great estates; and by lines or tribes, in their lesse estates. And for that it so great a matter was without sedition done by the onely wisdom of *Fabius* the Censor, he tooke the surname of *Maximus* (or of the Greatest:) in which doing he amended the errors of *Appius* the Censor, who had dispersed the enfranchised and naturallised Citizens (the issue of slaues and

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- A straungers) amongst all the tribes of the free borne men : yet afterwards (notwithstanding the order taken by *Fabius*) it was granted vnto the Citizens enfranchised, that they might enroll one of their sonnies beeing five yeares olde or more in the tribe or line of their patron: But when those foure tribes of the enfranchised Citizens seemed yet too puissant and strong, it was decreed, That there should by lot one tribe bee drawne out, wherein all the enfranchised Citizens should giue their voyces. And this was the state of the enfranchised Citizens, vntill the ciuill warre betwixt *Marius* and *Sylla*, at which time the people at the motion of *Pub. Sulpitius* made a law, That the enfranchised Citizens should from that time forward be againe diuided amongst all the tribes, which was the first and principall cause of the ruine of that Commonweale. Wherefore as
- B of slaues some are borne, some are made; so also of Citizens some are made, some are borne: the naturall Citizen, is he that is free of that wherein he is borne; whether he be borne but of one of his parents a Citizen, or of both of them Citizens. True it is that of auntient time (and yet at this present also in diuers Commonweales) to bee a Citizen it was needfull to haue both father and mother Citizens, as in Greece, otherwise they called them Bastards, or Mungrels, which were but Citizens on the one side, and could not themselues neither their children be partakers of the greatest benefits or offices in the Commonweale, which they called Archoutes, as saith *Demosthenes* in his Oration against *Xeera*, albeit that many (as *Themistocles* himselfe) were thereinto secretly entered. But in the time of *Pericles* five thousand of them were sold slaues, who had borne the countenance of Citizens. And *Pericles* himselfe hauing lost his children that were right Citizens, made request vnto the people, That his sonne might be enrolled among the Citizens, which sonne he had begot at Athens of his wife being a straunger. Wee also read that the Romans made a Collonie of foure thousand Spaniards, whome the Romans had begot of Spanish women, for that they were not true Citizens. But afterward it tooke place that he should be a Citizen whose father was a citizen: and in many places it is sufficient for the making of a citizen, that his mother was a citizen. For the place maketh not the child of a straunger (man or woman) to be a citizen: and hee that was borne in Africk of two Roman citizens is no lesse a citizen, than if hee had bene borne in Rome. Now the made or naturallised citizen is he who hath submitted himselfe vnto the soueraigntie of another, and is so receiued into the number of citizens. For the citizen of honour onely, who for his merits towards the Commonweale, or of speciall fauour hath obtained the right and priueledge of a citizen, cannot of right bee called a citizen, for that hee hath not put himselfe vnder the power of of anothers command.
- D Wherefore of many citizens, be they naturals, or naturallised, or els slaues enfranchised (which are the three meanes that the law giueth to become a citizen by) is made a Commonweale, when they are gouerned by the puissant soueraigntie of one or many rulers: albeit that they differ among themselues in lawes, language, customes, religions, and diuersitie of nations. But if all the citizens be gouerned by the selfesame lawes and customes, it is not onely one Commonweale, but also one very citie, albeit that the citizens be diuided in many villages, townes, or prouinces. For the enclosure of wals make not a citie, (as many haue written) no more than the wals of an house make a familie, which may consist of many slaues or children, although they bee farre distant one from another, or in diuers countries, provided that they bee all subiect vnto the command of one head of the familie: So say we of a Citie, which may haue many townes and villages, which vse the same customes and fashions, as are the Bailiwickes, or Stewardships of this realme: And so the Commonweale may haue many cities and prouinces which may haue diuers customes, and yet are neuerthelesse subiect vnto the command
- E The enclosure of wals make not a citie, but the gouernment of the citizens vnder the selfesame lawes: although they dwell in diuers townes or prouinces dispersed. * viz. France.

The naturall citizen.

* Plut. in Peri.

The naturallised citizen.

The citizen of honour properly no citizen.

The enclosure of wals make not a citie, but the gouernment of the citizens vnder the selfesame lawes: although they dwell in diuers townes or prouinces dispersed.

* viz. France.

command of their soueraigne lords, and vnto their edicts and ordinances. And it may also be that euery towne and citie may haue certaine priuileges in particuler, which are not common vnto them of the suburbs; and the suburbs also may haue certaine prerogatiues which are not common vnto the villages, nor to the inhabitants of the open countrie; who are yet neuerthelesse subiects of the same Commonweale, and citifens of their citie; yet are they not for all that burgesse: for the word citisen hath I know not how a more speciall signification with vs, than hath the word Burgesse: and is properly the naturall subiect, who hath the right of a corporation, or colledge, or certaine other priueledges, which are not common also vnto the burgesse. I haue said the naturall subiect, for that the subiect naturallised although hee dwell in the towne, and enioy the right of a burgesse, is yet called in many places a burgesse: & the other is called a citisen, who enioyeth a certaine particular priueledge proper vnto free borne citifens. As in Paris there is none but naturall citifens, and borne in Paris, that can be Prouost of the marchants. And in Geneua a burgesse cannot be Syndic, or Senator of the priuie counsell of xxv, which a citisen may well be: which is also vsed amongst the Swissers, and all the townes of Germanie.

*The difference
betwixt a citisen
and a burgesse.*

And thus much briefly concerning the difference of subiects, citifens, burgesse, and straungers; as also concerning a Commonweale, a Citie, and a Towne. But for as much as there is neither Greeke nor Latine, nor any other writer that I haue seene, which haue vsed these definitions, it is needfull by lawes and by examples to make plaine that which I haue before said, being otherwise of it selfe obscure. For we oftentimes see great quarrels and controuersies to arise as well betwixt princes, as citifens of the same towne or citie amongst themselues. For not vnderstanding the difference of these words, yea they from whome wee ought to expect the true resolutions of these things, are themselues oftentimes farre wide, mistaking a citie for a towne, a Commonweale for a citie, and straungers for citifens. But they which write of a Commonweale without knowledge of the law, and of the common right, are like vnto them which go about to build faire high houses, without any foundations at all. *Aristotle* hath defined vnto vs, A citie to be a multitude of citifens, hauing all things needfull for them to liue well and happily withall: making no difference betweene a Commonweale and a citie: saying also, That it is not a citie if all the citifens dwell not in one and the selfe same place: which is absurditie in matter of a Commonweale; as *Iulius Caesar* in his Commentaries well declarerth, saying, That euerie citie of the Heluetians had foure villages, or cantons. Where it appeareth that the word Citie, is a word of right or iurisdiction, which signifieth not one place or region, as the word Towne, or Citie; which the Latines call *Vrbem* or *Urbo*, that is to say of *aratio*, or plowing: for that as *Varro* saith, the compasse and circuit of cities was marked out with the plough. It is also certaine in question of right, That he which hath caried out of the citie, that which was by the law forbidden to be carried out, and hath carried the same into another citie or towne of the same prouince; is neither to be said to haue caried the thing out of the citie, neither to haue offended against the law. Yea the doctors go farther, saying, That hee hath not done contrarie vnto the law, that hath transported the thing forbidden into any other citie or towne subiect vnto the same prince. And albeit that writers oftentimes confound both, taking sometimes the one for the other, as the greeks oftentimes vse the word *πόλις ἀντὶ τῆς πόλεως*, and the Latines the word *Ciuitas* for a towne, a citie, or the right of citifens, for that the generall which is the citie, comprehendeth in it the particular, which is the towne: yet so it is, that they abused not the word *ἄστυ ἀντὶ τῆς πόλεως*, as we see that *Cicero* hath well kept the proprietie both of the one and of the other: for the word *ἄστυ* signifieth properly a towne, wherof came the word *astuti*, which with the Greeks signifi-

* *Arist. Politic.*
lib. 3. cap. 6.

* *Cice. ad*
Atticum. lib. 4.

A signifieth as much as doth with the Latines *Vrbani*, for that the inhabitants of townes are commonly in their behauiour more ciuill and gracious, than are the pesants or rude countrey men: for the word *Ciuilis*, which we call ciuill, was not of the auntient Latines receiued for *Vrbani*, that is to say courteous, or after the manner of the citie. And least any man should thinke them to be rashly confounded, and to be but a question of words, and not of matter: it may be that a towne may be well built and walled, and that more is well stored also with people, and furnished with plentie of all things necessarie to liue withal, & yet for all that be no citie, if it haue not laws and magistrats for to establish therein a right gouernment (as we haue said in the first chapter) but is more truly to be called an Anarchie than a citie. And so contrariwise it may be, that a towne may be in all points accomplished and haue the right of a citie, and of an vniuersitie, and well ruled also with lawes and magistrats; and yet neuerthelesse shall it not bee a Commonwealth: as we see the townes and cities subiect vnto the seignorie of Venice, which are no Commonwealths no more than the townes in the prouinces subiect and tributarie vnto the citie of Rome were of auntient time no Commonwealths, neither enioyed the right or priuiledge of Commonwealths; but the citie of Rome it selfe onely, which had great priuiledges and prerogatiues against them all in generall, and against euery one of them in particular: albeit that the lawes speaking, of the other townes, doe oftentimes vse this word (Citie) but that also vnproperly, for *Traian* the emperour writing to *Plinie* the yonger, Proconsul of Asia, denieth the citie of the Bithynians to haue the right of a Commonwealth, in being preferred before other priuat credits in the right of a pledge, and that truly. For why? that was proper vnto the citie of Rome, and to them to whome they had especially giuen this prerogatiue, as was onely the citie of Antioch in all the Roman Empire. So wee see that a towne may be without a citie, and a citie without a towne, and neither the one nor the other of necessitie a Commonwealth: and that more is, one and the same citie may still bee kept in the whole and entire state of a citie, the wals thereof being laid flat with the ground, or it quite abandoned by the citisens; as did the Athenians at the comming of the Persian king, vnto whome they left their towne, putting all themselves vpon the sea, after they had put their wiues and children in safetie amongst the Trezenians; following therein the counsell of the Oracle, which had answered them, That their citie could not be saued but by wooden wals: which *Themistocles* interpreted, That the citie (which consisteth in the lawfull bodie of citisens) could not be saued but by ships. In like manner it happened also vnto the inhabitants of Megalopolis, who vnderstanding of the comming of *Cleomenes* king of Lacedemonia, all voyded their towne, which for all that was no lesse a towne than before; yet was it then neither citie, nor Commonwealth: in sort that a man might say, That the citie was gone out of the rowne. So spake *Pompey* the Great, after he had drawne out of Rome two hundred Senators, and the better part of the citisens, and so leauing the towne vnto *Cesar*, said thus, *Non est in parietibus respublica*, The Commonwealth is not in the wals. But forasmuch as it had in it two sorts of partakers, and that the citisens diuided into two parts had put themselves vnder the protection of two diuers heads, they now seeme of one Commonwealth to haue made two. Wherefore by these words Citie, Towne, Commonwealth, Colledge, Court, Parish, Familie, are signified the right of these things. And as oftentimes it hath bene iudged that the church being without the wals of the citie, and the parishioners within the citie, that they should enioy the right of citisens, as if the parish were within the compasse of the wals: so also is it to bee iudged of a citie. Neither let it seeme vnto any man straunge, that I stand something the longer vppon this matter; if he but remember what importance the lacke of knowledge of these

That the citisens, and not the wals or buildings of a citie, make a citie.

things was long ago vnto the Carthaginensians. For at such time as question was made in the Senat of Rome, for the raising of Carthage: the report thereof being bruited abroad, the Carthaginensians sent their ambassadors to Rome, to yeeld themselves vnto the mercie of the Romans, and to request the Senat not vnworthily to rase that their citie one of the fairest of the world, famous for the noble acts therof, an ornament of Rome it selfe, and a monument of their most glorious victories. Neuerthelesse the matter being long and thoroughly debated in the Senat, it was at last resolued vpon, That for the safetie of the Roman empire Carthage should bee destroyed; as well for the oportunitie of the place, as for the naturall perfidiousnesse of the Carthaginensians themselves, who had now alreadie made warre vpon the allies of the Romans, rigged vp a number of ships contrarie to the agreement of peace, and secretly stirred vp their neighbour people vnto rebellion. The matter thus resolued vpon, the Carthaginensian ambassadors were sent for into the Senat, vnto whome aunswere was given by the Consull, That they should continue in their faith and fidelitie vnto the Senat and the people of Rome, and in pawne thereof to deliuer vnto the people of Rome three hundred hostages and their ships: in which doing they should haue their citie safe, with all their rights, priueledges and liberties, that euer before they had enioyed. With this answere the ambassadors returned merrily home. But by and by after commision was given vnto *Scipio Africanus* the yonger, To go in all hast with a fleet to Carthage, and with fire and sword to destroy the towne, sauing the citisens and all other things else that they could carrie out of the towne. *Scipio* arriuing in Africke with his armie, sent *Censorinus* his lieutenant to Carthage, who after he had receiued the promised hostages together with the Carthaginensian ships, commaunded all the people of Carthage to depart out of the towne, yet with free leaue to carrie out with them what they would, and to build them a citie further off from the sea, or elsewhere to their best liking. With this strait commaund of the lieutenant the Carthaginensians astonished, appealed vnto the faith of the Senat, & of the people of Rome, saying, That they had promised them that their citie should not be rased: to whome it was aunswered, That the faith giuen vnto them by the Senat should in all points be kept; but yet that the citie was not tied vnto the place, neither vnto the wals of Carthage. So the poore inhabitants were constrained to depart and abandon the towne vnto the fire, which was set vpon it by the Romans, who had not had it so good cheape, had the ambassadors before vnderstood the difference betweene a towne and a citie. As oftentimes it chancesseth that many embassadors ignorant of the law of armes, and of that which right is, do euen in matters of state commit many grosse faults. Although that *Modestinus* writeth, That Carthage was no more a citie after it was rased, and that the vse and profit left vnto the citie, was in this case extinct aboue an hundred yeares before: but hee was in the same error wherein the ambassadours of the Carthaginensians were, vnto whome all their rights, prerogatiues, and priueledges were reserued. The like error was committed in the agreement made betwixt the Cantons of Berne and Friburg, in the yeare 1505, wherein it was agreed, That the amitie and alliance betwixt those two Commonweals should be for euer, and so long to endure as the wals of both the cities should stand. Neither are we to stay vpon the abuse which is ordinarily committed, or vpon the acts of greatest importance of them, which call one and the same thing a towne, a citie, and an vniuersitie: as some say of Paris, and certaine other places, calling that the citie which is contained in the Isle, and the vniuersitie the place wherein the colledges stand, and all the rest the towne, when as the towne it selfe is contained within the compasse of the wals and suburbs: howbeit that wee herein follow not the proprietic of the law, calling it the towne and suburbs, for the diuers priueledges graunted

The Carthagi-
nensian ambaf-
sadors deccimed
for not well vn-
derstanding
what a citie is
or towne.

A vnto them by diuers kings; and the vniuersitie the bodie of all the burgeses of Paris together: but the citie the coniunction or ioyning together of the towne it selfe and the liberties, as also of the men vsing the same lawes and customes, that is to say the coniunction of the prouostship and of the countie of Paris together: which abuse is growne, for that of auntient time all the towne was not but the isle inuironed with wals, and the riuer about the wals, so as we read in the Epistle of *Iulian*, gouernour of the West empire, who made his ordinatie residence in Paris; the rest of the citie that now is being then in gardens and arable land.

But the fault is much more, to say, That he is not a citisen, which is not partaker of the offices of gouernment, of giuing of voices in the consultations of the people, whether it be in matters of iudgement, or affaires of the state. This is the definition of a citisen, which *Aristotle* hath left vnto vs by writing, which he afterward correcting himself, sayeth it not to haue place put in the popular state only. Now he in another place himselfe confesseth that definition not to be good which is not generall. Small apparance also is there in that he saith in another place, The noble to be more a citisen than the base, and the inhabitant of the towne rather than the plaine country peasant; and that as for the yong citisens, they as yet but grow as nouices, whilst the elder citisens decay; and that they of the middle age are the entire citisens, and the other but in part. Now the nature of a definition neuer receiueth diuision; neither containeth in it any thing more or lesse than is in the thing defined. And yet neuerthelesse that description of a citisen that *Aristotle* hath giuen vnto vs, is defectiue and lame, not being aptly to be applied euen vnto the popular estate, seeing that in the Athenian estate it selfe which had no peere for the libertie and authoritie of the people, the fourth ranke or degree of citisens being more than three times as great as all the rest of the people, had no part in the offices of gouernment, or in iudgements. So that if we will receiue the definition of *Aristotle*, we must needs confesse, that the greater part of the naturall burgeses of Athens, were in their owne Commonweales strangers, vntill the time of *Pericles*. And as for that which he saith, The noble to be alwaies more citisens than the base and vnnoble, is vntrue, not onely in the popular estate of the Athenians, but also in the popular Commonweales of the Swissers, and namely in Strasbourg, where the nobles (in the qualitie of nobles) haue no part in the offices of state and gouernment.

E Wherefore it is better and more truly said of *Plutarch*, That they are to bee called citisens that enjoy the rights and priueledges of a citie. Which is to be vnderstood according to the condition and qualitie of euerie one; the nobles as nobles, the commoners as commoners; the women and children in like case, according vnto the age, sex, condition, and deserts of euery one of them. For should the members of mans bodie complaine of their estate? Should the foot say to the eye, Why am not I set aloft in the highest place of the bodie? or is the foot therefore not to be accounted amongst the members of the bodie? Now if *Aristotles* definition of a citisen should take place, how many seditions, how many ciuill warres, what slaughters of citisens would arise euen in the middest of cities? Truly the people of Rome, for no other cause departed from the Senators, than for that they enjoyed not the same authoritie and priueledges that the nobilitie did; neither could it otherwise be appeased than by the meane of the fable of the members of mans bodie, whereby the graue and wise Senator *Agrippa* reconciled the people vnto the Senators. For *Romulus* the founder of the citie of Rome, excluded the people from the great offices of commaund, from the offices of priesthood, and from the augureships; commaunding the same to be bestowed vpon such onely as were descended from them whome he himselfe had chosen into the Sen-

Aristotle his definition of a Citisen impugned.
* Lib. 3. cap. 1.
& cap. 4. Polit.
* Topi. lib. 6.
* Pol. li. 3. ca. 1.

Who indeed be citisens.

nat, or els from them whome he had afterwards ioyned vnto them. And this new people hauing vanquished their neighbours, enforced many of them to abandon their owne countrey and customes, to become inhabitants and citisens of Rome, as they did the Sabines. Afterwards hauing vanquished the Tusculans, the Volscians, and Herniques, they agreed together that the vanquished should haue part in their offices, and voices also in the assemblies of their estates, without any other chaunge either in their law or customes; who for that cause were not called citisens, but municipes (as who should say, Men made partakers of their immunities) yet indeed lesse esteemed and honoured than the Romans themselues, albeit that their estate were vnited vnto that of the Romans. As we see that *Cateline* descended of the aunient familie of the *Sergians* in Rome, and so a naturall Roman, by way of disgrace obiected to *M. Tullius Cicero*, That he was but a new vpstart of *Arpinas*. And that was the cause that many municipiall townes chose rather to vse the Roman lawes than their owne, to become true citisens of Rome, vntil the time of *Tiberius* the emperor, who vterly took away the verie shadow of the popular libertie which *Augustus* the emperour had yet left; hauing remoued the popular assemblies from the people vnto the Senat: at which time the municipiall townes of Italie refused the priueledges of the citie of Rome, whereat the emperour *Adrian* maruelled (as saith *Aul. Gellius*) but without cause, for that they seeing the popular honours and offices to be all in one mans bestowing, they thought it now better to vse their owne lawes than others.

The diuers sorts
of citisens in
Rome.

Thus we see two sorts of citisens differing in priueledges, that is to wit, the Roman citisen, and the municipiall or countrey citisen. Now the third sort were the Latines, who had at the beginning threescore townes, but were afterward augmented with twelue Latine Colonies, who after long warres made peace with the Romans vpon condition, That they should liue after their own maners and customes, and yet should be made citisens of Rome, whosoever of them should remoue his dwelling into the citie, hauing yet left behind him some lawfull issue at home in the countrey. Yet when many of them fraudulently abused this agreement, & gaue their children vnto the citisens of Rome in adoption, or vnder the colour of seruitude, to the intent that by them forthwith againe set at libertie, they might in a moment enioy the liberties and priueleges of the citie; order was taken by the law *Claudia*, confirmed by a decree of the Senat, and edict of the Consuls, That all the Latines which had so by craft obtained the freedome of the citie, should be constrained againe to returne into the Latine cities: which thing was done at the request of the Latine cities themselues. And so is that to be vnderstood that *Boetius* writeth, The Romans sent into the Latin Colonies, to haue lost the liberties of the citie: as also that which *Titus Livius* saith, The Roman Colonies sent to Puteoli and Salerne by the decree of the Senat, to haue bene no more citisens: which is not further to be vnderstood or extended, but to their right for giuing of voices, by that meanes now taken from them. So were they of Reims, of Langres, of Saintonges, of Bourges, of Meaux, and of Aurun, free people of Fraunce, allies of the Romans, and citisens also, but without voice (as saith *Tacitus*) before that it was permitted vnto them to haue states and honourable offices in Rome. And those of Aurun were the first that had the priueledge to bee Senators of Rome, and therefore called themselues Brethren vnto the Romans: howbeit that the Auuergnats tooke vnto them the same priueledge & title, as descended from the Troians (as saith *Lucan*.) Now it is not to be doubted, but that that the Roman Colonies were true and naturall citisens of Rome, drawne out of the Roman blood, vsing the same lawes, magistrats, and customes; the true markes of a true citisen. But the further that these Colonies were distant from the citie of Rome, the lesse they felt of the glorie and brightnesse of the

A the sunne, and of the honours and offices which were diuided among the citizens and inhabitants of Rome: insomuch that the inhabitants of the Roman Colonies at Lyon, Vienne, and Narbone, thought themselves verie happie to haue gained but the priueledges of the Italians, who were of auncient time the allies and confederats of the Romans, enioying the honourable freedome of citizens, and yet without chaunging either of their owne lawes or customes, or loosing any point of their liberties. And forasmuch as the Romans, holpen by the strength & power of their friends and allies, had subdued diuers other nations, and yet suffered not those their friends and companions to be admitted to sue for the honours and honourable offices in the citie; therefore the confederats warre in all Italie against the Romans, which neuer tooke end vntill that after much harme on both sides both done and receiued, the libertie of the citie of Rome was by the law *Iulia* graunted vnto *all Italians, some few onely excepted. For the cities of Italie were called some Colonies, some Allies, some of them of the Latines, and some of the Italian iurisdiction, and all of them different. And that is it for which *Titus Liuius* saith, *Iam inde morem Romanis Colendi socios, ex quibus alios in ciuitatem, atque equum ius acceperunt: alios in ea fortuna haberent, ut socij esse quam ciues mallerent.* viz. Now since that time the manner of the Romans was to honour their fellowes, of whome some they tooke into the citie, and into like freedome with themselves: other some they had in that estate, as that they had rather to haue them their fellowes, than citizens with them. And hereof proceeded that speech of *Tiberius* the emperour, in the Oration which he had in the Senat, which is yet seene engrauen in brasie in Lyon. *Quid ergo? Num Italicus Senator prouinciali potior est?* What then? Is an Italian Senator better than the prouinciall Senator? As if he would haue said them both to haue bene Senators alike. And yet the same emperour excluded the Frenchmen which had obtained the freedome of the citie of Rome, from suing for the honours or offices thereof. Whereby is better to be vnderstood that which *Plinie* writeth, Spaine to haue in it 470 townes; that is to wit, 12 Colonies: 3 of citizens of Rome, 47 of them which had the freedome of the Latines: 4 of Allies, 6 of them that were enfranchised; and 260 tributaries. And albeit that the Latines were so straitly allied vnto the Romans, as that they seemed to be verie citizens; yet neuerthelesse that they were not so, it is to be well gathered by that saying of *Cicero*: *Nihil acerbius Latinis ferre solitos esse, quam id, quod perraro accidit, a Consulibus iuberi ex urbe exire.* viz. The Latines vsed to take nothing more heauily, than that which but verie seldome times happened, To be commaunded by the Consuls to void the citie: for as for other straungers we read, them to haue oftentimes bene driuen out of the citie. In briebe, such was the varietie of priueledges and prerogatiues amongst them which were contained within the Roman empire, besides their confederat and free people; as that almost no one thing was so proper vnto the Roman citizens in generall, as that the magistrats and gouernours might not proceed in iudgement against them in matters concerning their life and libertie, without the peoples leaue. Which prerogatiue was by the tribunitiall law *Iunia* graunted to all the citizens of Rome, after that the people had expulsed their kings, and was called, The holy Law, being oftentimes after reuiued and confirmed by the *Valerian* Consull laws, at diuers times made by the Consuls *Publius*, *Marcus*, and *Lucius*, of the honourable familie of the *Valerians*: and last of all by the Tribunitiall law *Sempronia*, and *Portia*, where to meet with the proceedings of the magistrats and gouernours, who encroached vpon the iurisdiction of the people, and proceeded oftentimes against the people, without yeelding thereunto, there was the penaltie of treason annexed vnto the law; for that those lawes were oftentimes broken by the magistrats. And at such time as *Cicero* was about to haue commaunded

The cause of the confederat warre in Italie against the Romans.

* Plu. in Sylla

* Liui. lib. 26.

No one priueledge more common vnto the Roman citizens in generall, than that the magistrats might not proceed against them in cases concerning life or libertie, without the peoples leaue.

the Roman citifens priuie to the conspiracie of *Cateline* to be strangled in prison : *Cæsar* desiring to dissuade the matter in the Senat, said, Our auncestors imitating the manner of the Grecians, did punish and correct their citifens with stripes ; and of men condemned tooke the extreamest punishment : but after that the Commonwealth was growne strong, the law *Portia* and other lawes were prouided, whereby for men condemned banishment was appointed. Which law *Cicero* hauing transgressed, was therefore not onely driuen into exile, but also proscribed, his goods confiscated, his house (esteemed to be worth fiftie thousand crownes) burnt, and a temple built in the plot thereof, which the people at the motion of *Clodius* their Tribune, commaunded to be consecrated to Libertie : wherewith the magistrats terrified, durst not but from that time forward with lesse seneritie proceed against the Roman citifens, yea euen after that the popular state was chaunged. And that is it for which *Plinie* the younger, Proconsull of Asia, writing to *Traian* the emperour, concerning the assemblies made by the Christians in the night, to the disquiet of his iurisdiction : I haue (saith he) many in prison, amongst whome there are certaine citifens of Rome, whom I haue put apart for to send them vnto Rome. And *S. Paul* at such time as he was drawne into question, as a seditious person, and a troubler of the common quiet ; so soone as he perceiued that *Felix* the gouernor would proceed to the triall of his cause, he required to bee sent vnto the emperour ; saying, That he was a citifens of Rome, for that his father being of the tribe of *Beniamin*, and borne at *Tharsis* in *Caramania*, had obtained the right of a Roman citifens : Which so soone as the gouernour vnderstood, hee surceased to proceed any further in the matter ; and sent him to Rome, saying, This man might haue bene set at libertie, if he had not appealed vnto *Cæsar*. Whereas otherwise if hee had not bene a citifens of Rome, the gouernour would haue proceeded in the matter, seeing the countrey of Palestine was before brought into the forme of a prouince. As in like case *Pontius Pilat*, gouernour of the same countrey, was constrained to condemne Christ Iesus as a tributarie subiect of his prouince, whome for all that hee seemed to haue bene willing to haue deliuered out of the hands of his enemies, and from all punishment, if he could well in so doing haue auoided high reason, which the people threatned him with : Which the gouernour fearing, least he should seeme to haue any thing therein offended, sent the whole proesse of the matter vnto *Tiberius*, the emperour (as saith *Tertullian*.) For if the municipiall magistrats of the Iewes had had soueraigne power and iurisdiction, they would not haue sent him back againe vnto the gouernour, crying That he had deserued the death, but that they had not the power to proceed thereunto against him. For the municipiall magistrats of prouinces had not any iurisdiction, more than to commit the offenders into safe keeping, for feare of the present daunger, and to receiue cautions, or to giue possession, and sometimes to appoint tutors vnto poore orphans ; but in criminall causes, had no power or authoritie, neither ouer the citifens of Rome, neither ouer the straunger or prouinciall subiect, or ouer others that were enfranchised ; but onely ouer their slaues, whome they might at the vttermost but with stripes correct. For as for the iurisdiction giuen to them that had the defence of townes, they were established by *Valentinian* three hundred and fiftie yeares after. Whereby it is to be gathered, all power and authoritie for the execution of iustice to haue bene giuen to the Roman gouernours, and their lieutenants in their prouinces, and taken from the rest. For they but deceiue vs, which thinke the Iewes priests, for the qualitie of their priesthood to haue made conscience to condemne to death our Sauour Christ Iesus, as if by their religion they had bene hindred so to do ; and hereupon haue concluded, That churchmen ought not to giue iudgement that carried with it the execution of blood : which proceeded of the ignorance

A rance of antiquitie: For it is euident that before the land of Palestine was brought into the forme of a prouince, it had but the Senat of the Iewes, consisting of 71 persons, composed in part of priests and Levites, who had the power of condemning offenders to death, as the Chaldean interpreter plainly sheweth; and the Hebrew Pandects more plainly than he.

Wherefore this was the greatest and chiefest priueledge proper to the citisens of Rome, That they could not by the magistrats be punished either with death or exile; but that they might still from them appeale; which libertie all the citisens of Rome enioyed. The other Roman subiects which had not this priueledge, were not called citisens: yet thereof it followeth not, that to speake properly they were not indeed citisens; and according to the true signification of a citisen: for they must needs be citisens, or straungers, allies, or enemies, seeing that they were not slaues; for so much as they were contained within the bounds of the Roman empire. But we cannot say that they were allies, for that onely free people which defended the maiestie of their estate, were called the fellowes or allies of the Romans: neither could it bee said that they were enemies or straungers, seeing that they were obedient subiects, and that more is, paid tribute vnto the Roman empire: wee must then conclude that they were citisens; for it were a verie absurd thing to say, That the naturall subiect in his owne countrey, and vnder the obeyfance of his soueraigne prince, were a straunger. And that is it for which we haue said, That the citisen is a franke subiect, holding of the soueraigntie of another man. But the prerogatiues and priueledges that some haue more than others, maketh vs to call some of them citisens, and others tributaries. Yet we read that the emperour *Augustus* was so iealous of these priueledges, that hee would neuer giue the right of a Roman citisen vnto French men, for any request that his wife *Linia* could make vnto him; yet for all that, not refusing to ease them from paying of tributes: neither liked he well of it, that his vncl *Cesar* had together & at once giuen the freedome of the citie, vnto that legion which he had raised of Frenchmen, and in generall to all the inhabitants of Nouo come: and blamed also *M. Antonius*, for that he had for money sold the freedome of the citie vnto the Sicilians. Neuerthelesse the succeeding princes kept not with so great deuotion the rights and priueledges of the Roman citisens. *Antonius Pius* by a generall edict gaue the freedome of the citie of Rome vnto all the citisens of the Roman empire (slaues alwaies excepted) that so the citie of Rome might be the common countrey of all nations. Wherein hee seemed in a sort to imitat the example of * *Alexander* the Great, who called the whole world but one citie, and his campe the chiefe fortresse thereof. But *Antoninus* contented himselfe with the Roman world. And albeit that the citie, or rather the grant of the immunities of the citie seemed so to be communicated vnto all, yet were the priueledges of citisens diuers, some alwaies enioying more than others; as is to bee seene not onely in the Commentaries and answeres of the great lawyers, which flourished after *Antoninus Pius*, but also in the edicts of other princes. For *Seuerus* more than fiftie yeres after *Antoninus* was the first that gaue the priueledge to them of Alexandria, that they might be made Senators of Rome: but the other Egyptians could not be made citisens of Rome, except they had before obtained the freedome of the citie of Alexandria. Which well sheweth, that the greatnesse of the priueledges make not the subiect therefore the more or lesse a citisen. For there is no Commonwealth where the citisen hath so great freedome, but that he is also subiect vnto some charge: as also the nobilitie, although with vs exempted from taxes and tallages, are yet bound to take vp armes for the defence of the Commonweale and others: and that vpon paine of their goods, their blood, and life. For otherwise if the largenesse of prerogatiues and priue-

The greatest & chiefest priueledge proper vnto the citisens of Rome.

* Plot. in Alexandro.

The greatnes of the priueledges and immunities which a man enioyeth, maketh him neuer a whit the more therefore a citisen.

Honourable citi-
sens.

ges should make a citisen, then verely straungers and allies were to bee called citisens, F
 seeing that oftentimes greater and larger priueledges are giuen vnto straungers or allies,
 than to citisens themselues : For why? the freedome of the citie is oftentimes for an
 honour giuen vnto straungers, who yet for all that are bound vnto no commaund or
 necessarie duties. As the Swissars gaue the freedome of their citie first to *Lewes* the ele-
 uenth, and so afterwards vnto the rest of the French kings : So *Artaxerxes* king of
 Persia, gaue the freedome of the citie vnto *Pelopidas* (and all his posteritie) entreating of
 alliance with him : So the Athenians made free of their citie *Euagoras* king of Cyprus,
Dionysius the tyrant of Sicilie, and *Antigonus* and *Demetrius* kings of Asia. Yea that
 more is, the Athenians gaue vnto all them of the Rhodes the freedome of their citie :
 and the Rhodians with like courtesie vpon the agreement of the league, made all the G
 Athenians citisens of their citie, as we read in *Liue* : which league was called, The
 treatise of *Comburgeosie*. What manner of league that was made betwixt the Valest-
 ans, and the five little Cantons in the yeare 1528 ; and betwixt the Cantons of Berne
 and them of Friburg, in the yeare 1505 ; and againe betwixt them of Geneva & them
 of Berne in the yeare 1558 : the force of which leagues was such, as that there should
 be a mutuall communication betwixt them both of their citie and amitie : and in case
 that any of the confederats forsaking his owne citie, had rather to goe vnto the citie of
 his fellowes and confederats, he should presently become a citisen and subiect of the
 other citie, without any new choyce or speciall letters of his naturalisation or enfran-
 chising. But the freedome of any citie giuen for honour sake vnto any, bindeth no H
 man vnto the commaund thereof ; but him which forsaketh the dwelling place of his
 natiuitie or citie, that so he may come into the power of another prince : For neither
 were those kings whom we haue spoken of ; neither *Hercules*, or *Alexander* the Great,
 when they were made honourable citisens of the Corinthians, subiect or bound vnto
 their commaunds ; in such sort as that the right of a free citisen was vnto them but as
 a title of honour. Wherefore seeing it impossible for one and the same person to bee a
 citisen, a stranger, and an allie ; it may well be said that the priueleges make not a citi-
 sen, but the mutuall obligation of the soueraigne to the subiect, to whome for the faith
 and obeisance he receiueth, he oweth iustice, counsell, aid, and protection, which is not
 due vnto strangers.

But some may say, How can it then bee, that the allies of the Romans, and other I
 people gouerning their estate, were citisens of Rome (as those of Marseilles and of
 Austun?) Or what is that which *M. Tullius* crieth out : O the notable lawes, and of
 our auncestors by diuine inspiration made and set downe, euen from the beginning of
 the Roman name, That none of vs can be the citisen of more than one citie : (for dissi-
 militude of cities must also needs haue diuersities of lawes) nor that any citisen can
 against his will be thrust out, or against his will be detained in the citie. For these are
 the surest foundations of our libertie, Euery man to bee master both of keeping and of
 leauing of his right and libertie in the citie. And yet he the same man, before had said it
 to be a thing granted vnto all other people, that euerie man might be a citisen of many K
 cities : with which errour (saith he) I my selfe haue seene many of our citisens, igno-
 rant men, led ; to haue at Athens bene in the number of the judges, and of the Areopa-
 gi, in certaine tribe, and certaine number, when as they were yet ignorant whether
 they had obtained the libertie of that citie ; and to haue lost this, except they had by
 the law made for the recouerie of things lost, againe recovered the same. Thus much
 hee.

But first to that which he writeth concerning the Athenians, that law of *Solons* was
 long before abolished, which admitted not a straunger to the freedome of a citisen
 of

A of Athens, except he were banished out of his owne countrey: at which law *Plutarch* wondreth about measure; not foreseeing that to have bene done of *Solon*, to the end (as it is like) That no man should enjoy the immunitie and priueleges of a citisen of Athens, and that popular prerogatiue which the people had, except he were bound vnto the commaund and lawes of the Athenians. But he which is against his will detained vnder the commaund of a straunge citie, hath without doubt lost the right of his owne citie: which can in no wise be applied vnto those kings whome wee haue before spoken of, or yet to the Rhodians which had ordained the freedome of the Athenians. Wherefore this is it, as I suppose, that *M. Tullius* meant (for why, hee well agreeth not with himselfe) That he which was indeed a true citisen of Rome, that is to say, which was bound vnto the Senat and the lawes of the people of Rome, could not be bound vnto the commaund of another citie. As *Pomponius Atticus* borne in the citie of Rome, being a Roman citisen, and of the honourable order of the knights, who for his loue towards the Athenians, was thereof called *Atticus* (and vnto whome three of the Roman emperours referred the beginning of their discent) refused the freedome of the citie of Athens offered him by the Athenians; least (as saith *Cornelius Nepos*) he should haue lost the freedome of the citie of Rome: which is true in regard of the true subiects and citisens; but not in the citisens of honour, which are not indeed subiects: neither in respect of them which are citisens of diuers cities, vnder the power of one and the same prince, a thing lawfull vnto all euen by the Roman law. For although one may be the slaue or vassall of many maisters or lords, yet can no man be the subiect of diuers soueraigne princes, but by the mutuall consent of the princes; because that these are vnder no mans commaund, as are they vnto whome seruice is by turne done by slaues, who may by the magistrats be enforced to sell their slaue, except the seruite labours, which cannot at once be done to them all, be by turnes done by the slaue. And this is the point for which we oftentimes see warres betwixt neighbour princes, for the subiects of their frontiers, who not well knowing whome to obey, submit themselves sometimes to the one and sometimes to the other: and oftentimes exempting themselves from the obeisance of both two, are ordinarily inuaded and preyed vpon by both the one and the other. As the countrey of Walachie hauing exempted it self from the obeisance of the Polonians, hath become subiect vnto the Turkes; and afterwards submitting it selfe vnto the kings of Polonia, paid tribute neuertheless vnto the Turke, as I haue learned by the letters of *Stanislaus Rasdrazetoski* sent to the cunstable of France, bearing date the 17 of August 1553. Neuertheless there are many people vpon the frontiers, which haue set themselves at libertie, during the quarrels of princes, as it is come to passe in the low countrey of Leige, of Lorraine, & of Burgundie: where there are more than twelue subiects of the French king, or of the empire, or of Spaine, who haue taken vpon them the soueraigntie. Amongst whome *Charles* the fift reckoned the duke of Bouillon, whome he called his vassall: and for that he was his prisoner in the yeare 1556, at the treatie made for the deliuerance of prisoners, hee demaunded an hundred thousand pound for ransome; for that he called himselfe a soueraigne prince. But there are well also others beside the duke of Bouillon: & to go no further than the marche of Burgundie (which is called, The forbidden countrey) six princes haue soueraigne power ouer their subiects, which the mutual wars betwixt the French and the Burgundians haue by long prescription of time brought forth. And in the borders of Lorraine, the counties of Lume & of Aspremont haue taken vpon them the right and authoritie of soueraigntie. Which hath also happened vpon the borders of England and Scotland, where some particular men haue made themselves great commaunders within this twenty or thirty yeres, against the ancient agreements. For, for to meet with
such

such enterprises, the English and the Scots had of auntient time agreed, That the Batable ground, (that is to say a certaine part of the countrey so called, vpon the frontiers of both realmes, being fve miles long, and two miles broad) should neither be tilled, built, or dwelt vpon; howbeit that it was lawfull for both people there to feed their cattell: with charge that if after the sunne setting, or before the sunne rising, any of their beasts were there found, they should be his that so found them: which was one of the articles agreed vpon by the states of Scotland, in the yere 1550, and sent to *Henrie* the second the French king, as was by him provided. But where the soueraigne lords are good friends, as the Swissers of the countrey of Lugan, and the other territories which belong in common to all the lords of the league, whither they send their officers euerie Canton by turne: there the subiects are not reputed to bee the subiects of diuers soueraignes, but of one onely, which commaundeth in his order; in such sort as that one of them seeke not to encroach vpon the others. Whereof rise a sedition betweene the seuen Cantons Catholick, and the foure Protestants, in the yere 1554, the Catholicks desiring to chastice the inhabitants of Lugan and Louerts, who had seperated them from the church Catholike: and the Protestants hindring them so to do, and were now vpon the point to haue taken vp armes the one against the other, if the Cantons of Glaris, and Appenzell, who allow of both religions, had not together with the ambassadour of the French king, interposed themselves, and so pacified the matter. Now therefore the full and entire citisen or subiect of a soueraigne prince, can bee no more but a citisen of honour of another seignorie. For so when as we read that king *Edward* the first gaue the freedome of citisens vnto all the inhabitants of base Britaine; that is to be vnderstood for them to enioy the liberties, exemptions and freedoms, that they of the countrey enioyed. So say we also of the Bernois, and the inhabitants of Geneva, who call themelues by their treaties of alliance, Equall, and by their letters Combourgeses. For as for that which *Cicero* saith, That the citisens of Rome might at their pleasure leaue their freedome of citisens, to become citisens of another citie: nothing was vnto them therein more lawfull, than that was in like case vnto all other people lawfull also: and that especiallie in a popular estate, where euerie citisen is in a manner partaker of the maiestie of the state, and doe not easily admit strangers vnto the freedome of citisens. As in Athens, where to make a straunger free of their citie, there must of necessitye 6000 citisens, by their voices in secret giuen consent therunto. But in such places and countries as wherein tyrants rule, or which for the barrennesse of the soile, or intemperature of the ayre are forsaken by the inhabitants; not onely the citisens, but euen the strangers also are oftentimes by the princes of such places prohibited to depart, as in Moscouia, Tartaria, and *Æthiopia*; and that so much the more, if they perceiue the stranger to be ingenious and of a good spirit, whome they detaine by good deserts, or els by force, if he would depart: in stead whereof hee must buy it deare, or right well deserue of the Commonweale, that shall get his freedome of a citisen amongst the Venetians or Ragusians, or such other free states. And although that by the Roman law euerie man might giue vp his freedome; and that in Spaine it is free for euery man to remoue elswhere, and to be enrolled into another citie, so that it be done by protestation to the prince: yet hath it and shall bee alwayes lawfull to all princes and cities, by the right of their maiestie and power to keepe their citisens at home. And therefore princes in making of their leagues, protest that they will not receiue any the subiects or vassals of their confederats into their protection, freedome, or priueleges, without their expresse consent. Which is conformable vnto the auntient clause of the Gaditane confederation reported by

A citisen of Rome might at his pleasure giue vp his freedome.

Not citisens onely but euen strangers also in some places prohibited to depart.

* Cicero in orat. pro Corn. Bal.

* *Cicero: Ne quis federatorum a populo Romano ciuis reciperetur, nisi is populus fundus factus esset; id est auctor. vii.* That

none

A none of the confederats, should of the people of Rome be receiued for a citisen, except that people so confederat had bene the ground, (that is to say, the author thereof.) For therein lieth the state of that cause: for that *Cornelius Balbus* was a citisen of a confederat citie, & therefore could not contrarie to the league, by *Pompeius* be made a citisen of Rome without the consent of the confederats. The same *Cicero* writeth also in the leagues of the French with the Romans to haue bene excepted, That none of them should of the Romans be receiued for a citisen. The same laws we yet at this present vse. For althogh that the Swissers ate with vs ioined in a most strait bond of amity & friendship: yet neuerthelesse is the same clause conceiued in that league, which was with them made in the yeare 1520. And againe at such time as the fise lesser Cantons of the Swissers made a league of alliance and amitie amongst themselues, it was excepted that no citisens of the confederats should be receiued; or if they should desire the freedom of another citie, they should not otherwise obtaine it, except they would dwell in the countrey, their land and goods remaining as before. And besides these leagues, there is no prince which hath not taken the like order; So that oftentimes the subiect dare not so much as to depart out of the countrey without leaue, as in England, Scotland, Denmarke, and Sweden, the noble men dare not to goe out of their countrey without leaue of the prince, except they would therefore loose their goods: which is also obserued in the realme of Naples, by the custome of the countrey. As also it was forbidden by the emperour *Augustus* to all Senators to goe out of Italie without his leaue, which was alwaies right straitly looked vnto. And by the ordinances of Spaine it is forbidden the Spaniards to passe ouer into the West Indies, without the leaue of the king of Spaine: which was also of auncient time forbidden in Carthage, when *Hann* their great captaine had first discovered the islands of the Hesperides. And by the decrees of Milan, it is not lawfull for any subiect to receiue the freedom of any other citie; or to enter into alliance or league with any other princes or Commonweales, without the expresse leaue of the Senat of Milan. And that more is, we see oftentimes that it is not permitted vnto the subiect, so much as to change his dwelling place, albeit that he depart not out of the seignorie and obeysance of his soueraigne prince: as in the dutchie of Milan, the subiect comming to dwell in the citie of Milan, or within a certaine circuit of Milan, must first haue leaue so to doe; and also pay vnto his prince three duckets. We also find that it was in auncient time forbidden the Bithynians (subiects vnto the Romans) to receiue any other subiects into their towne, or to giue vnto them the freedom of a citisen, as they oft times did, to decline the iurisdiction of others, or to ease them of paying of customes and tributes due: in which case the law commaundeth, That he which hath so chaunged his dwelling should beare the charges of both places; which was also decreed by the kings, *Philip* the faire, *John*, *Charles* the fift, and *Charles* the seuenth. Howbeit that the decree of *Philip* the long would, That the Prouost or bailiefe of the place, assisted with three burgessees, should receiue into the freedom of their citie, whosoever of the kings subiects as would, provided, That within a yeare and a day he should in the same citie into which hee removed, buy an house of the price of 60 soulz Paris at the least; and to signifie the same by a sergeant, vnto the lord vnto whome the iurisdiction of the place wherein he dwelled belonged; and after that, that he should dwell in the same citie whereinto he was receiued for a citisen, from the first of Nouember, vnto the 24 of Iune; and yet paying the like tax or tribute that he did before he removed, so long as hee dwelleth in that new freedom; and without declining the iurisdiction for any suit commenced against him three months before.

The subiect may not depart out of his countrey without the leaue of his prince.

The Canaries.

And albeit that it be lawfull for euery subiect to chaunge the place of his dwelling;

Not lawfull for
any man to for-
sake his native
countrie.

Why princes of-
tentimes by large
gifts and priue-
leges draw into
their countries
ingenious stran-
gers.

To haue dwelt
long in another
princes countrie
maketh him nee-
uer a whit the
more the strange
princes subiect.

yet is it lawfull for no man to forsake his native countrie; and much lesse for them which are enrolled and tied to the soyle, whome we call Mort-maines, who of auncient time might not chaunge their dwelling place without speciall leaue. And so generally a man may say in tearmes of right, That the freedome of a citisen is not lost, neither the power of a prince ouer his subiect, for chaunging of the place or countrie; no more than the vassall can exempt himselfe from the faith and obedience hee oweth vnto his lord; or the lord without iust cause refuse to protect and defend his vassall, without the consent of one to the other, the bond betwixt them being mutuall & reciprocal. But if the one or the other haue giuen their expresse or secret consent; or that the subiect forsaking his prince, hath yeilded himselfe vnto the protection of another prince, by the sufferance of the first, without contradiction, he is no more bound vnto the obeisance that he oweth him: neither can otherwise than as a stranger afterwards returne into the former citie. For princes oftentimes by large gifts or priueleges draw into their countries ingenious strangers; whether it be so to weaken their neighbour princes, or for the better instruction of their owne people, or so to encrease their wealth and power, or els for their immortall fame and glorie which they hope to get in making the towns and cities by them built, more renowned with the multitude of citisens and plentie of all things. So *Theseus* by proposing the libertie of the citie to all strangers, made the citie of Athens most famous of all the cities of Greece. So *Alexander* the Great by granting of great priueleges, least the city by him built at the mouth of the riuer Nilus (which he after his owne name called Alexandria) the greatest, and best traded of all the cities of *Egypt*. So king *Lewes* the eleuenth gaue the priueleges of the citie of Burdeaux to all strangers whether they were friends or enemies (except the English) so that they dwelt within the towne. So *Frauncis* the Great, founder of the citie by him built at the mouth of the riuer Sequana, which they call The Port of Grace, proponing immunitie from all tributes, to all them that should dwell therein, in short time made it a most populos citie. Neither should the citie of London abound with so great wealth, nor such a multitude of citisens, had not *Richard* king of England proposed vnto strangers all the immunities graunted vnto the citisens: so that they had dwelt ten yeares in the citie: which space of time for the obtaining of the libertie of the citie, most part of the Swissers and Germans, indifferently propounded to al strangers: a thing well agreeing with the Roman lawes. True it is that more or lesse time is required in one place then in another, according to the commodiousnesse of the place, or the greatnesse of the priueleges. As in Venice to obtaine the grant and priueledges of a simple citisen (without hauing any other interest in the state, except in certain meane offices) a man must haue dwelt foureteene yeares within the citie. They of Ferrara were content with ten yeares, so that the inhabitants had all the meane while borne the same burthen with the citisens. And yet it sufficeth not to haue dwelt in another mans countrie the time prefixed in the customes, to obtaine the freedome of a citisen; if the stranger do not demaund the citisens right and freedome, and be therinto also receiued: for it may bee that the stranger would not for any thing chaunge his prince, howbeit that his affaires hold him out of his owne countrie. For howbeit that many be of opinion, that a man hauing staid the prefixed time in another mans countrie, without hauing obtained letters of naturalising, is yet capable of testamentary legacies: they in that agree in fauour of testaments, and especially of charitable legacies giuen vnto poore strangers, who are alwaies as much to be fauoured as the widdowes and orphans. But to obtaine the full right and priueledge of a citisen, it sufficeth not to haue dwelt the time appointed by the decrees and ordinances of the place, if a man haue not both demaunded and obtained the same. For as a gift is to no purpose, except that

- A that both he which giueth, and he to whome it is giuen agree, the one in giuing and the other in receiuing : so neither is he made a citisen that would not ; neither if he would could he so be, either of the princes interposing themselues . For which cause those Consuls, of whome the one was by an herald at armes yeilded vnto the Numantines ; and the other to the Samnites , for that they had without the commaundement of the people made peace with the enemies ; left not therefore to bee citisens of Rome : because they were not received by the enemies . Which question for all that could not yet be fully decided, for the different opinions of *Brutus* & *Scuola* betwixt themselues. For when the Consull yeilded to the Samnites , returning to Rome was come into the Senat, the Tribune of the people compelled him to go out of the Senat : howbeit
- B in fine the Senat by decree declared, That hee had not lost the right of a citisen of Rome, being refused by the enemy : howbeit that in truth he was not onely deprivied of the right of a citisen, but also made a slaue of the enemies , by the decree of the people, for hauing without their leaue capitulated and treated of peace with the enemies : and ought to haue bene againe restored by the people . Neuerthelesse the milder opinion of the Senat interpreted that the depriviing of him of his freedome was conditionall, as in case that he were of the enemy receiued . But if so be that a straunger doth enen against his will retaine the rights of his owne citie, when as hee yeilded himselfe vnto the power of another prince, by whom he is refused : much more doth he retaine the same when he requireth not the right of a strange citie : and then when it hath bene offered him, hath refused the same : and much lesse if he haue not bene presented
- C vnto the strange prince, neither hath of him required letters of his naturalising, but onely to stay in his countrey as a straunger the time prefixed by the decrees . Whereby is decided the difficultie and doubt which the Senat of Naples made, and therein resolved nothing ; that is to wit, If he that had dwelt all his life in a strange countrey should enioy the right and freedome of a citisen in his owne countrey . And many there be, that thinke he ought not to enioy the same ; saying, That regard is to be had to the place of his long dwelling : but I am of opinion (if mine opinion may take place) That hee ought neuerthelesse to enioy the priueledge of a free citisen , if he haue not by consent of his prince expressly renounced it, or els done some fact contrarie to the dutie of a naturall subiect . Neither am I alone of this opinion . For the the court of parliament of
- D Paris , by decree made the xiiij of Iune, in the yeare 1554 adiudged that a French man hauing dwelt fiftie yeares in Venice, continued yet still subiect to the French king, and was receiued vnto the succession of his next kinsmen : hee hauing in the meane time done no harme against his countrey, neither committed any crime for which he ought to loose his libertie, neither hauing refused to come being called home by his prince ; nor yet requested the freedome of the citie of Venice to haue bene giuen him . For as for secter consent it ought to hurt no man, being esteemed as no consent in things prejudiciall , except it be by word or deed plainly exprest : especially when wee may otherwise interpret the mind of him that hath not declared the same . Whereby it is
- E to be vnderstood what is to be iudged of the question propounded : which the court of Burdeaux all the judges being assembled together could not determine . As whether a Spaniard borne and brought vp in Spaine, and yet the sonne of a French man (which French man had alwaies dwelt in Spaine, & expressly renounced the place of his birth) being come into Fraunce there to make his perpetuall residence, ought to enioy the priueleges of a citisen, without letters of his naturalizing ? Neuerthelesse I am of opinion that he is a straunger, for the reasons before alleged , and that he ought not to enioy the priuelege of a citisen ; sauing vnto the prince to reforme it if it shall so seeme good vnto him : And if a straunger which hath obtained letters of his naturalising out

of his owne countrey, and yet will not there dwell, he loofeth the right he there pretendeth: for that the lawes suffer not a double fiction. And for this cause *Lewes* the xij. the French king thrust out from the right of free citifens all straungers, who had obtained of him letters of their naturalifing, and were retired out of his realme home. For by our customes he that will get the freedome of a citifens, must obtaine the princes letters to that purpose, and hauing obtained them, pay his fine vnto maisters of the receipt.

Better sometimes
to be a straunger
than a naturall
citifens.

These reasons show not onely the difference that is betwixt a citifens and him that is none, but also of citifens amongst themselues; and that if we follow the varietie of priueleges to iudge of the definition of a citifens, there shall bee five hundred thousand of definitions of citifens, for the infinit diuersitie of the prerogatiues that citifens haue one against another, and also ouer straungers: seeing that it is oft times better in the same citie to be a straunger, then a citifens, especially in such cities as are oppressed with the crueltie and insolencie of Tyrants. As in *Florence* many citifens requested *Cosmus* the new duke to be reputed and esteemed as straungers, by reason of the libertie of straungers, and thraldome of the citifens, which they obtained not: and yet hee allured fiftie straungers to sue for the freedome of the citie, putting them in hope of the great offices and commaunds: whereby it was brought to passe, that from those fiftie citifens so made, he extorted fiftie thousand crownes, confirmed the authoritie of the new citifens gotten by deceit, and thereby brake the power of the conspirators against him. So in auncient time the Venetians empouerished and brought low by the warres against the Genowayes, and fearing the rebellion of many subiects, with a few of the great states, sold the right and priueledge of a gentleman of Venice vnto three hundred citifens, so to strengthen themselues with their goods, their force, and counsell, against the power of the people. It is then the acknowledgement and obedience of the free subiect towards his soueraigne prince, and the tuition, iustice, and defence of the prince towards the subiect, which maketh the citifens: which is the essentiall difference of a citifens from a straunger, as for other differences they are casual and accidentarie; as to haue part in all or certaine offices or benefices; from which the straunger is debarred as it were in euerie Commonweale. As for offices it is cleere. And although the Bishops of Rome haue of long time attempted to giue all benefices to all men as of right: yet haue princes oftentimes reiected those ambitious decrees of the Popes. I except the kings of Spaine, of all others the most obedient seruants of the Bishops of Rome, who not without great reward obtained by the decree of *Sixtus* Bishop of Rome, That benefices should not be bestowed vpon straungers. And so in *Boulongne la Grace*, where the Pope is soueraigne lord, the offices and benefices are not giuen but to the naturall inhabitants and subiects. The like whereof is done also in all the seignorie of Venice. But the Swissers haue farre otherwise proceeded than by way of agreement, who by a law made in the yeare 1520, decreed the Popes Bulls and Mandats, whereby he had not doubted to giue benefices vnto straungers, to bee publickly torne, and they that vsed them to be cast in prison. And by the lawes of the *Polonians* also euen from the time of *Casimire* the Great, vnto the raigne of *Sigismundus Augustus*, straungers were kept farre from all benefices; which thing also the Germans by couenants, of late wrested from the Popes: in which couenants they of *Mets* were also comprised, and so iustly by their letters complained vnto *Charles* the ix. the French king, those couenants to bee broken by the craft of the Bishops of Rome.

Another priueledge there is also graunted more vnto citifens than to straungers, in that they are exempted from many charges and payments, which the straunger is constrained to beare: as in auncient time in *Athens* the straungers payed a certaine speciall tribute

The true difference
betwixt a
citifens and a
straunger.

A tribute for the right of their dwelling place, which they called *usum loci*: whereas the citizens were free from all impositions. But the most notable priueledge that the citizen had about the stranger, is, that he had power to make his will, and to dispose of his goods, according to the customes; or leaue his neereft kinsmen his heires; whereas the stranger could do neither the one nor the other, but his goods fell vnto the lord of the place where he died. Which is no new law in Fraunce, as the Italians complaine, but a thing common also vnto the kingdome of Naples, of Sicilie, and all the East, where the Grand Signior is not onely heire vnto the strangers, but also to his Timariots, for their immouables; and to his other subiects for the tenth. As in auncient time in Athens, the common treasure receiued the sixt part of the inheritance of strangers, and al their slaues borne in the citie: whereas in Rome the rigour was much greater (the common treasure swallowing vp all the inheritance of strangers.) And albeit that where *Diodorus* saith, The Egyptians and Romans to haue suffered the heires of strangers to succeed them: he spoke therein like a stranger himselfe without regard; for it is most certaine, that it was no way permitted for a stranger to dispose of his goods, neither to receiue any thing by the testament of a citizen of Rome, the common treasure carrying away the succession: whereof our laws are full. Which we may also iudge by the oration of *Cicero*, who to show that *Archias* was a citizen of Rome, saith amongst other things, That he had by his testament disposed of his goods. And himself in his own cause to giue men to vnderstand that the decree of banishment made against him at the sute of *Clodius* the Tribune, was of none effect: What Roman citizen is there (saith he) that hath made any doubt to leaue me what hee pleased by his testament, without regard to the decree of my banishment. The selfe same argument vsed also *Demosthenes*, to proue that *Euxithenes* was a citizen of Athens: Haue not his next of kinne (saith he) recouered the inheritance of their father that suruiued? And like as in Fraunce, and in England, particular lords take vnto them the inheritance of strangers which die within their iurisdiction: so the Romans also after the manner of their auncestors, tooke vnto them the herederarie goods of strangers, whome they had receiued into their protection, being left at Rome, which they called, The right of application. And that is it for which they said in Rome, That the right to make a will and testament was onely granted to a citizen of Rome. Whereby it is plaine that right of application, or of Albinage (as some call it) to haue bene most auncient, and common as well to the Greeks and Romans, as to other people also, vntill that *Frederick* the second had derogated from the same by his edict, which was but euill kept: For he gaue leaue to all strangers dying within the compasse of his empire, by their testament to dispose of their goods; or if they dyed intestate, to leaue their next of kin their heires. But the force of that law is euen in Germanie it selfe nothing, and much lesse in Italie, where strangers are much worse dealt withall than in Fraunce. For by our customes it is permitted vnto the stranger to get in this * realme all the goods

D mouable and immouable that he can, and them whilst he yet liueth, to sell, giue, exchange, or dispose of by contracts made with men yet liuing, according to his owne pleasure; and for a small sum of money, as for some twentie or thirtie crownes paid into the common treasure, to obtaine letters of naturalisation, and the right of a citizen; so that he may by his will giue legacies, or appoint such an heire as himselfe pleaseth. But in many countries of Germanie, and by the generall custome of Bohemia, it is not suffered strangers to haue one foot of land. As in like case in Italie it is forbidden all strangers to get any immouables in proprietie, as in the duchie of Ferrara it is a small custome. And that more is, by the custome of Perouze, it is forbidden to transfer vnto a stranger not onely the proprietie, but euen the possession of any immo-

E

The greatest priueledge that a naturall citizen had in auncient time about a stranger.

viz. France.

Strangers in many places hardly dealt withall.

uable. And by the custome of Milan it is not permitted vnto the straunger, so much **F** as to haue the vse and profit of any thing immouable; and that vpon paine of confiscating the reuenew with the inheritance; forbidding inheritours also to marrie with straungers, vpon like paine of confiscating their goods. And that which more vniust is; it is not lawfull for the creditor being a straunger, to take his debtors immouables or land, for default of paiement assigned vnto him, but that he must within the yere againe cleere his hands thereof; which causeth the creditor oftentimes to sell his land vnderfoot, or for little, especially if the naturall inhabitants feare or loue the debtour. And not long since, by the ordinance of the emperour *Charles* the fift, all straungers are embarrated from the succession of the subiects of Milan. By the custome of Venice also it is lawfull to bind a citisen to a stranger, yet by that bond are not the heirs bound, more **G** than for so much profit as came vnto them thereby; quite contrarie vnto the Roman ciuill law. And by the custome of Brixia in Italie, a woman married vnto a straunger cannot transerre her immouables vnto straungers, neither the value thereof, neither directly, or indirectly. See now the good entertainment that straungers haue in Italie; whereof they haue no occasion to complaine of Fraunce, seeing that in England the subiects cannot pawne their lands vnto their creditors being straungers: whereof the ambassadors of forraine nations haue oftentimes complained to haue reason of their debtors: yet suffer they the next of kinne to enioy the goods and money of the straunger. The contrarie whereof is done in Lituania, Moscouia, Tartaria, and all the Turkish empire: in which place the goods of straungers dying there, are confiscat in like **H** manner as in Fraunce: where neuerthelesse it is permitted to straungers if they die out of Fraunce, to make a will, and to appoint his children borne in Fraunce his heires, so that their mother be not a stranger. And as for the clause commonly ioyned vnto the letters of their naturalisation: *Modo heredes sint Regnicole*, the iudges haue so interpreted it of straungers dwelling in Fraunce; who are preferred before them that are neerer of kinne dwelling out of the realme, in the succession of the naturalised straunger: for otherwise it is requisit to make the straungers children to succeed, for that they were borne in France, and of a free citisen, or naturall subiect. But the children of strangers borne in France, enioy their fathers inheritance, not by will (which is not lawfull for straungers to make) but as from him dying intestat, if their mother be a free woman **I** when the inheritance descendeth. And more than this, it is graunted by our kings of an extraordinarie bountie vnto such marchant strangers as frequent the fairs of Champagne and Lyon, That none of their goods, if they die in the meane time shall be confiscated: which right the English marchants enioy also in Guienne. But as for them of the low country of Henault & Artois, of the townes of Amiens, Cambray, & Turnay, they are in the same state that citisens be, for so much as concerneth the right of succession: and that the edicts of our princes, and iudgements giuen, haue oft times proued yet so as that the same should also be lawfull for vs, that was for them. The companies also of marchants of those cities which stand vpon the Baltique sea, haue obtained the same, or greater priueledges, now euer since the time of *Lewes* the younger, and more **K** solemnly confirmed by king *Charles* the eight: which a few yeares agoe were sent to king *Charles* the ninth (by *Danezay* the French ambassadour, vnto the king of Denmarke) to be by him renewed. And yet this priueledge granted vnto those marchants, extendeth not vnto other strange marchants, which haue obtained the right of citisens, as hath bene adiudged by the priue counsell. Of which so many and so great priueledges, by our kings graunted vnto straungers, our marchants could obtaine none in all Græcia, Asia, or Africa. For in our time when as *Croſile* a rich marchant of Tours, dying, had left behind him almost two hundred thousand crownes, nothing thereof came

A vnto his neereſt kindred, all the ſame being by the Turkiſh emperor giuen vnto *Abraham* the chiefe of the Viſier Baſſaes.

B There is yet another difference (beſides thoſe we haue alreadie ſpoke of) betwixt ciſſens and ſtraungers: for that ciſſens by the auncient law *Patilia* and *Iulia*, may forſake their goods, leauing them in ſatisfaction vnto their creditors, which the ſtraunger may not doe: for otherwiſe it ſhould bee lawfull for ſtraungers, for their aduantage to ſucke the blood and iuice of the ſubiects, and afterward to pay them with papers, although there be not fewer of theſe bankrupts than of them that forſake their goods. This alſo a ciſſen differeth from a ſtraunger, that the ſtraunger in euerie place before he can plead in action, either reall or perſonall, muſt put in caution for the payement of that which ſhall bee adiudged. Which caution our ciſſens, except they haue before plaid bankrupt, or forſaken their goods, are not bound to performe. But in a perſonall action, whether the defendant be a ciſſen or a ſtraunger, he is not bound to put in caution to pay the thing that is adiudged, as was in auncient time determined, as well in the court of Rome, as in the court of Paris. But the ſame court hath departed from the opinion of our auncſtors, and adiudged it to be a thing reaſonable, that the ſtraunger whether he be plaintife or defendant, ſhould put in caution to pay the thing that is adiudged. But there is one difference which is and hath alwaies bene common to al people, that is to wit, the right of marque againſt ſtraungers, which hath no place againſt the ſubiects: for which cauſe the emperor *Frederick* the ſecond, ſent backe vnto the ſtates

Other differences
betwixt a ciſſen
and a ſtraunger.

C of the empire, thoſe which demaunded the right of reſpriſall againſt the ſubiects of the empire. And in brieſe the ſtraunger might be driuen out of the countrey, not onely in time of warre (for then we diſmiſſe the ambaffadours themſelues) but alſo in time of peace; leaſt the naturall ſubiects manners ſhould by the euill companie of ſtraungers be corrupted: for which onely cauſe *Lycurgus* ſeemeth to haue forbidden the Lacedemonians his ſubiects without leaue to depart out of his kingdome, or to haue the uſe of gold or ſiluer; as the Eaſt Indians of China forbid their ſubiects vpon paine of death from receiuing of ſtraungers: ſo to meet with the enterpriſes that the ſtraunger might make againſt another mans eſtate. Wherefore *Cicero* well foreſaw not what harmes hang (as it were) ouer our heads from ſtraungers, when as he writ, They do euil which forbid ſtraungers their cities, and caſt them out, as with our auncſtors *Penius*, and of late *Papius*: For by ſuch ſtraungers, who for the moſt part are baniſhed men, the good manners of the naturall ſubiects are corrupted. But if warre be proclaimed againſt the prince, the ſtraunger may be detained as an enemy, according to the law of armes: whereas otherwiſe he might not be ſtaied, if he had not otherwiſe bound himſelfe by contract, or by ſome offence by him committed.

Plu. in Lycurg.

Now if the ſtraunger ſhall againſt the will, or without the conſent of his owne prince, ſubmit himſelfe vnto the power of another prince, and be of him alſo receiued for his ſubiect; yet hath his owne prince ſtill for euer power ouer him, and authoritie to lay hands vpon him as vpon his fugitiue ſeruant; yea although he come as an ambaffadour ſent from his new prince. For ſo the emperor *Theodoſius* the Great pronounced *Danius* the tyrant to be a rebell vnto his maieſtie, and caſt in priſon his ambaffadours, being ſubiect to his power. So the emperor *Charles* the fiſt did the like againſt the ambaffadours of the duke of Millan his ſubiect, whom he detained priſoner, at ſuch time as he vnderſtood the duke his maiſter to haue entred into league with the other princes, and to haue proclaimed warre againſt him. And howbeit that the news thereof being come into Fraunce, *Granuellan*, *Charles* his ambaffador, was by the kings commaundement there likewiſe imprifoned, yet was hee ſortwith againe deliuered, ſo ſoone as it was vnderſtood that the ambaffadors and heralds of Fraunce, England, and

A ſtranger ſub-
mitting himſelf
vnto the power
of another
prince, is yet the
ſubiect of his
naturall prince.

Venice, were with safe conduct sent out of Spaine. Neither seemeth *Charles* in so doing to haue violated the law of nations, or to haue done any thing against the law: see that the Romans did with greater seueritie punish the fugitiue subiect, than they did the verie enimie. And the best excuse that the Imperials could find to excuse the murder done vpon the persons of *Rincon* and *Fregosius* the French ambassadors toward the Turke, was, That the one of them was a Spaniard, a naturall subiect of the emperours, and the other a Genoway vnder his protection, both sent in the seruice of his enimie; the bruit being giuen out, that they went to raise new warres against him: howbeit that the emperour would not auouch the murder, but promised to do iustice vpon them that had done the same, if they should fall into his power. But doe the subiect what he can, yet can he not exempt himselfe from the power of his naturall soueraigne, albeit that he become a soueraigne prince in another mans countrey: no more than *Philip Barbarius* a slaue, who being for his vertue become Pretor of Rome, being pursued and chalenged by his maister, was yet glad to agree with him for his libertie. For in that the lawyers all agree, That the subiect in what place soeuer he bee become soueraigne, may by his prince be called home. As not long since *Elizabeth* queene of England called home againe vnto her the earle of Lincox, together with his son, who but a little before had married the queene of Scots; for not obeying of which her command, she confiscated their goods, for that contrarie to the custome of that realme, they had without leaue departed out of England, and married contrarie to the queenes commaundement. For the subiect wherefoeuer he be, is bound to the lawes of his prince conceived, concerning his person; in such sort, as that if the subiect be forbidden to contract or to alienate, the alienations are void, albeit that he make them in a forren country, and of such goods as he hath without the territorie of his owne prince: and if the husband being out of his owne countrey, giue any thing vnto his wife, contrarie to the commaundement of his prince, or the customes of his countrey, such a donation is nothing worth: for that the power to tie and bind a subiect, is not tied vnto places. And for this cause princes haue accustomed to vse mutuall requests one towards another, either to call home their subiects, or to enforce them to obey, in such places as wherein they haue not power to commaund: or els by mutuall denouncing of their griefes themselues to lay hand vpon straungers, vntill that they doe obey them. For when the marquesse of Rotelin, who had the tuition of the duke of Longueuille, was sued vnto to suffer the controuersie of Neufchastel to be decided before the judges of the court of Requests at Paris: the lords of Berne reuoked the cause, for that iudgement was to be giuen by them, of lands contained within the precinct of their country. See here the principal differences of subiects and citisens, from strangers; leauing the particular differences of euerie countrey, which are in number infinit. As for the differences of subiects amongst themselues, there are in many places no fewer, or happely moe than betwixt the subiects and the straungers (whereof we haue much spoken before) as not onely of the difference of the nobilitie amongst themselues, but of the difference betwixt the nobilitie and the vulgar people also. But particularly to prosecute how much the vulgar people differ amongst themselues, with such other things as appertaine vnto the sex, age or state of euerie man, were a thing almost infinit.

Now to make the matter short, it may be that of right among citisens, some be exempted from all charges, taxes, and imposts, whereunto others are subiect: whereof wee haue infinit examples in our lawes. As also the societie is good and available, where some of the associats haue part in the profit, and yet beare no part of the losse. And that is it for which we see the diuision of citisens or subiects into three estates, that is to say, the Spiritualltie, the Nobilitie, and Commonaltie, which is obserued al-

most

No subiect can exempt himselfe from the power of his naturall prince.

New Castill.

The diuision of citisens or subiects into three estates, a thing obserued in all Commonweals.

A most in all Europe. And beside this so generall a diuision, there bee other more speciall in many Commonweales, as in Venice the gentlemen, the citisens, and the common people: in Florence before it was brought vnder one prince, they had the great ones, the common people, and the rascall menie. And our auntient Gauls had their Druides, their Chinaltrie, and the vulgar people. In Ægypt the priests, the souldiers, and the artizans; as we read in *Diodorus*. Also the auntient law giuer *Hippodamus*, diuided the citisens into souldiors, handie crafts men, and labourers; & hath without cause bene blamed by *Aristotle*; as we read in the Fragments of his ordinances. And albeit that *Plato* enforced himselfe to make all the citisens of his Commonwealth equall in all rights and prerogatiues; yet so it is, that he diuided them into three states; that is to wit, into Gouvernours, Souldiors, and Laborers: which is to show that there was neuer Commonweale, were it true, or but imaginarie, or the most popular that a man could thinke of; where the the citisens were equall in all rights and prerogatiues; but that alwaies some of them haue had more or lesse than others.

* Lib. 2. Polit.

CHAP. VII.

¶ Of them that are vnder protection, and the difference betwixt Allies, Strangers, and Subiects.

C WE haue now already told what difference there is betwixt Subiects, Citisens, and Straungers: let vs now also speake of Allies, and first of them which are in protection; for that there is not one of them which haue written of a Commonweale, which haue touched this string; which for all that is the most necessary for the vnderstanding of the states of Commonweales. The word of protection in generall extendeth vnto all subiects which are vnder the obeyfance of one soueraigne prince or seignorie; as we haue said, That the prince is bound by force of armes, and of his lawes, to maintaine his subiects in suretie of their persons, their goods, and families: for which the Subiects by a reciprocall obligation owe vnto their prince, faith, subiection, obeyfance, aid, and succour. This is the first and the strongest protection that is. For the protection of maisters towards their slaues, of patrons towards their enfranchised, of lords towards their vassals, is much lesse than that of princes towards their Subiects: insomuch that the slaue, the enfranchised, the vassall, oweth faith, homage, and succour, vnto his lord; but yet that is after his owne soueraigne prince, to whome he is a bound Subiect: the souldior also oweth obeyfance and succour vnto his captaine; and by the law deserueth death, if hee defend him not at his need. Yet in all treaties and actions of peace betwixt princes & people in amitie and friendship ioyned together: the word of Protection is special, importing not any subiection of him that is in protection, neither commaund of the protecture towards his adherents, but onely an honourable and reuerent respect of the adherents towards their protector, who hath taken vpon him their defence and protection, without any other impeachment of the maiestie of the adherents ouer whome the Protector hath no power at all. So that the right of protection is well deemed to bee the greatest, fairest, and most honourable of all others that are amongst princes. For the soueraigne prince, the maister, the lord, the patron, draw vnto themselues great profit and obedience, for the defence of their subiects, their slaues, their enfranchised, and vassals: but the Protector is to content himselfe with the honour and acknowledgement of his adherent, seeing that of all duties of courtesie, none is greater, than as euerie man standeth in most need of helpe, so to giue him the greatest reliefe; neither of so great kindnesse to accept any other reward than thanks: for if hee couenant for any thing

Protection.

How in treaties of peace princes are said to be one of them in the protection of another.

To protect others is a thing most honourable.

thing farther, he looseth the name of a Protector. For as he which lendeth vnto another man part of his goods or trauell, if he receiue any gaine or profit thereby, he is no more to be called a lender, or that his doing to be tearmed a lending or pleasuring, but a meere mercinarie gaining: so he which hath liberally promised to doe any thing for another man, is without any hire by the law bound to accomplish his promise: and the reason is, for that vnto dutie no hire is due. Neither is there any band of promise stronger, or more effectually, than that which is made to defend the goods, the life, the honor of the weake against the stronger, of the poore against the rich, of the good distressed against the violence of the wicked. And that is it for which *Romulus*, founder of the citie of Rome, setting in order the state of his subiects, to keepe them all at peace and vnitie among themselues, assigned vnto euery one of the hundred gentlemen, or Senators that he had chosen to be of his priue counsell, a certaine number of his other meaner subiects, to be by them maintained vnder their protection and safegard; holding him accursed and execrable, who should leaue the defence of any his adherents. And the Censors marked them with the note of infamie, that had forsaken their adherents. The law also of the xij tables in that case carrieth with it the paine of excommunication, as in these words: *If the Patron deceiue his Client let him be accursed*. Yet *Plutarch* writeth, The clients to haue giuen money to the bestowing of their patrons daughters: which I remember not to haue bene elsewhere written; for in so doing they should haue cosened their clients: but it may bee that he mistooke clients, for men enfranchised; who albeit that they be both called clients or adherents, yet is the bond of the enfranchised greater towards their patrons that set them at libertie; than is that of the free borne clients, who had no patrons but aduocats, who defended the causes of their clients. Howbeit with vs the patrons exact money of their enfranchised clients, the better to bestow their daughters, which is like enough to haue come from the Romans vnto vs. Now when that forren people saw the Roman clients or adherents to be safe from the iniurie and oppression of the more mightie, not onely euery particular man, but men euen generally, yea whole cities and prouinces yeelded themselues into the protection of the Senators. For so the house of the *Marcelles* had in their protection the citie of *Syracusa*, the *Antonies* had likewise the citie of *Boulongne la Grasse*: and so others afterwards tooke vpon them the protection and defence of others also. Yea the straungers in like case, that frequented the citie of Rome, had also their protectors, who by the law of application or patronage, tooke vnto them whatsoever the stranger dying in the citie possessed. And of these same Romans that filled Fraunce with the multitude of their Colonies, it is like this law of protection, which of the aduocats and not of the clients, they call the law of *Auouison*, or *Auouerie* to haue taken beginning. But the enfranchised clients differ much from the free borne clients, albeit that they be both called clients, for the likenesse that is betwixt the one and the other) but especially in this, that the enfranchised clients may from their libertie be againe reduced into slauerie, if they shall be proued to haue bene vngratefull vnto their patrons whereas the free borne clients cannot so be. The enfranchised clients are constrained also to helpe their patrons with their labours: whereas the free borne clients are bound to reuerence their protectors or aduocats, and to do them mutuall kindnesse, but not seruite service or labour: neither if they haue done any thing to deceiue their patrons do they therefore loose their libertie: beside that the patrons suruiuing may by the law take part of the goods of their enfranchised clients: whereas the aduocats, or protectors can take nothing of the goods or inheritance of their free borne clients or adherents.

And although there be so many things common to the free borne clients, with the vassals or adherents, as that they are almost accounted for one, yet is there great difference

How whole cities
sometimes put
themselves into
the protection of
some one hono-
rable house of
the Roman Se-
nators.

Great difference
betwixt the free
borne clients and
the clients en-
franchised.

- A rence betwixt them. For the vassall is bound with all fidelitie to honour and reuerence his lord, to helpe him being in daunger, and to do him all the kindnesse possible: and ifso be that he shall deceive his lord, disgrace him, perfidiously abiure him, or giue him the lye: hee by and by looseth therefore his fee, which escheateth vnto his lord by the right which the lord hath against his vassall in such case: whereas from the vndutiful or vnkind client, or adherent, nothing can at all be taken. Moreover if the vassall hath without any exception giuen his faith vnto his lord; or acknowledge no man greater than him; whether he be sworne or not, he is bound vnto the subiection & command of him the same his lord and prince: whereof he cannot be said to be discharged, albeit that he neuer so much renounce his fee: whereas the client or adherent standeth not in these tearmes, being in nothing subiect to his aduocat or protectour. The vassall also whether he be a king or pope, or whatsoeuer els oweth faith and seruice vnto the lord of whome he holdeth his fee, except he renounce the fee: whereas the free borne client or adherent, whether he be prince or priuat man, is free from all seruice and command of his more mightie aduocat or protectour. In brieft the right of a vassallage seemeth in a manner to be but new, and before the comming of the Lombards into Italie vnknowne: whereas the law of protection is most auncient and before the time of *Romulus*, who borrowed it of the Greeks: for it was long before vsed in Theffalie, Ægypt, Asia, and Sclauonia, as we read in auncient writers: that so the weaker might be the safer from the violence or iniurie of the more mightie. The vassall also receiueth inheritance and fees of his lord, from whose fealtie and obescance which he oweth vnto him, he cannot bee exempted; albeit that the soueraigne prince should raise the fee of his vassall depending of him into a countie, dutchie, or principallitie, as hath beene adiudged by the decree of the parliament of Paris: Whereby it is to be vnderstood them to erre and be deceived, who out of *Cesars* Commentaries interpret them whome he calleth *Soldurios et deuotos*, to be vassals; seeing that hee hath made no mention of their fee, without which they cannot so be, ioyning thereunto also, that they were indeed true and naturall subiects: for that their liues, their goods, and their persons, were consecrated vnto their lord: which is the true marke of subiection, which the vassals owe onely vnto their soueraigne prince, not in the qualitie of vassals; but in the qualitie of naturall subiects, who ought to runne the same fortune with their prince, and to liue and die for him if need bee, albeit that the vassall bee more specially bound, than the other subiects.
- D

The difference betwixt the free borne client and the vassall. This right is of the Latins called Ius commissi: Or of the French Droit de comite.

Vassalage but new: protection most auncient.

- All which things tend to this purpose, that it may plainly be perceiued, what and how much difference there is betwixt the rights of patronage, vassallage, and protection, which we see to bee of many for the likenesse among themselves confounded. For the vassall and the adherent owe their fidelitie vnto their lord and protector; and the one of them are reciprocally bound vnto the other, albeit that the lord be not bound by expresse word to giue his oath of fidelitie to his vassall, as the protector ought to his client or adherent, and so solemnly to keepe all the treaties of protection. The lord and the vassall also ought to deliuer solemn letters of their mutuall obliging of themselves the one to the other: like as the protectour and the adherent, are bound to giue letters of protection the one of them to the other: but especially if one soueraigne prince vpon a league made, receiue another soueraigne prince into his protection, which are to be renewed either of the princes dying. For the right of protection belongeth not vnto the heires, except the same be in the league so compyled: and bee it neuer so provided for yet neuertheless either of the princes being dead, it is needful for his successor by lawfull acts to profess his protection, & to haue the league renewed. But to make more manifest the matter of protection betwixt soueraigne princes,
- E

The difference betwixt patronage, vassallage, and protection.

whereof

whereof we are to entreat: it seemeth that the soueraigne prince or people, which hath put it selfe into the protection of another, is become his subiect. And if he be a subiect, then is he no more a soueraigne, and his subiects shall also be the subiects of the protector. And what subiection would a man haue greater, than to put himselfe into the protection of another man, and to acknowledge him for his superiour? For protection betwixt great princes, is nothing else but the confederation and alliance of two princes, or soueraigne lords, wherein the one acknowledgeth the other for superiour; whome he bindeth himselfe to obserue and reuerence, and into whose protection hee is receited, so to be the safer from the iniurie of some other more mightie: also when the subiect of a prince retireth himselfe into the territorie of another prince, hee is likewise in his protection; in such sort, as that if he be pursued after by the enemye, & taken prisoner in the territorie of another soueraigne prince, hee is not prisoner of him that pursueth him, but of him into whose territorie he hath fled: as was iudged by the law of armes at the interparle of peace, which was betwixt the French king & the emperor *Charles* the fift, in the yere 1555, when question was made of the imperial prisoners that the French had taken in the countie of *Gynes*, which was then in the subiection of the English; it was maintained by the Chancellor of England, That they could not be detained as prisoners, being taken in the territorie and protection of the English: howbeit that the contrarie might be said: for albeit it was not permitted to pursue or take prey in another mans territorie, yet it is lawfull hauing raised it in his owne territorie, to pursue it into another mans ground: which yet suffereth this exception, If the lord of the ground forbid him nor so to do: as did the lord *Grey*, gouernour of *Calais* and *Guines*, who comming in the time of the pursuite, was said to haue taken the flying Spaniards into his protection, although that they were carried away by the French. Now in this case the word Protection, is not taken in proper signification; for there is no protection, if there be no conuention: and the strange prince cannot take another princes subiect into his protection without the consent of his owne prince, as wee shall hereafter declare.

But yet before let vs determine the propounded question, Whether a soueraigne prince submitting himself vnto another soueraigne prince, looseth the right of his own soueraignie; and whether he become subiect to the other? For it seemeth that he is no soueraigne, acknowledging a greater than himselfe. Neuerthelesse I am of opinion that he continueth still a soueraigne, and not a subiect. And this point is decided by a law, whereof there is not the like, and hath in diuers readings bene altered: but we follow the originall of the *Pandecks* of *Florence*; which hold, That soueraigne princes who in treatie of alliance acknowledge the protector to bee greater than themselves, are not yet for al that their subiects: I doubt not (saith the law) but that allies, and other people vsing their libertie are not strangers vnto vs, &c. And albeit that in the treatie of confederats and allies, by vnequall alliance, it be expressely said, That one of them shall respectiuey regard the maiestie of the other; that maketh not that hee should bee therefore his subiect; no more than our adherents and clients are lesse free than our selues; although they be not equall with vs, neither in goods, power, nor honour. And the ordinarie clause inserted into the treaties of vnequall alliance in these words, *Committer maiestatem conseruare* (that is to say, courteously to preserve the maiestie of the greater) importeth no other thing, but that betwixt the princes allied, the one is greater and more honourable than the other; and that the lesser allies should in al modestie respect the greater. So that incidently appeareth, that protection importeth not subiection, but the superioritie and prerogatiue of honour. And the more cleerely to vnderstand this point, and the nature of treaties and alliances, we may say that all treaties amongst

What protection
betwixt great
princes is.

Whether a soue-
raigne prince
submitting him-
selfe vnto the
protection of ano-
ther prince, loo-
seth thereby his
own soueraignty,
and so becom-
meth the other
princes subiect.

Protection im-
porteth not sub-
iection.

- A** princes are made either with friends, enemies, or newters. The treaties betwixt enemies, are made to haue peace and amitie, or truce, or to compose warres begun for seignories or for persons, or to redresse the iniuries and displeasures of one of them against the other, or for traffick and hospitalitie that might bee betwixt enemies during the time of truce. As for the others which are not enemies, the treaties which are made with them, are either by alliance equall, or vnequall: in this the one acknowledgeth the other to be superiour in the treatie of alliance; which is in two sorts, that is to wit, when the one acknowledgeth the other to be his superiour for honour, and yet is not in his protection: or els the one receiue the other into protection, and both the one and the other is bound to pay a certaine pension, or to giue certaine succours; or
- B** els owe neither pension nor succours. As for allies by alliance equall, which the Latines call *Æquo fœdere*, the qualitie is vnderstood, when the one is in nothing superiour vnto the other in the treatie: and that the one hath nothing about the other for their prerogative of honour, albeit that the one must do or giue more or lesse than the other for the aid that the one oweth vnto the other. And in this sort of treatie, they haue alwaies entreated of amitie, traffique, and hospitalitie, to harbour the one with the other, and to traffique together with all kind of marchandise, or some certaine kindes onely, and at the charge of certaine imposts agreed vpon by the treaties. And both the one and the other alliance is of two sorts, that is to wit, defensue onely, or defensue and offensue; and yet may be both the one & the other, without exception of person,
- C** or with the exception of certaine princes: and the most strait alliance is that which is both defensue and offensue, towards all, and against all; as to be a friend to friends, and an enemy to enemies; and so most commonly order is taken, and treaties of mariages one of them had with the other. But yet the alliance is more strong, when as one king is allied with another king, realme with realme, and one man with another man; as were in auncient times the kings of Fraunce and Spaine, and the kings of Scotland and Fraunce. And that was it for which the ambassadours of Fraunce answered *Edward* the fourth, being driuen out of the realme of England, That the king could not giue him aid, for that the alliances of Fraunce and England were made with the kings, and the realmes, in such sort that king *Edward* chased out of his realme, the league continued with the realme and the king that therein raigned: the effect of which words was this, *With such a king, his countries, territories, and seignories*: which words are as it were in all treaties expresse. But these treaties ought also to bee published in soueraigne courts or parliaments, and ratified by the estates, by the consent of the Attorney generall, as was decreed in the treatie made betwixt king *Lewes* the eleuenth, and *Maximilian* the arch duke, in the yeare 1482. The third sort of alliance is that of neutralitie, which is neither defensue nor offensue, which may be betwixt the subiects of two princes being enemies; as those of the Franche-countie haue alliance of neutralitie with the house of Fraunce, and are assured in time of warre: in which alliance was also comprised the countie of Basigny, by the decree of *Bade* in the yeare 1555, in confirming with the king the renouation of the neutralitie for the Franch-countie. And all these afore said alliances are perpetuall, or limited to a certaine time, or for the life of princes, and some yeares more, as is alwaies in treaties of alliance agreed vpon betwixt the kings of Fraunce, and the lords of the leagues.
- E**

*Alliance equall,
or vnequall.
Vnequall of two
sorts.*

Alliance equall.

*Alliance defensue
onely, or both
defensue and
offensue.*

*Alliance of
neutralitie.*

And thus much for the generall diuision of all the treaties which are made betwixt princes, vnder the which are comprehended all the particular alliances. For as for the diuision of the Roman ambassadours, at the enterparle of peace betwixt them and *Antiochus* the great, it is verie short. *Linie* saith, *Tria sunt Genera fœderum, vnum cum bello victis dicerentur leges: alterum cum pares bello æquo fœdere in pacem & amicitiam venirent:*

rent : tertium cum qui hostes nunquam fuerunt in amicitiam fœdere coeunt, qui neque dicunt neque accipiunt leges. There are (saith he) three kinds of leagues or confederations; one, when as lawes and conditions are appointed to them that be in battell ouercome: another when men in warre equall come together in like league into peace & friendship: the third, when as they which neuer were enemies, by league ioyne in amitie, who neither giue nor take lawes. All the others, which are neither subiects nor allies, are either coallies, or enemies, or newters without alliance or hostilitie, who all generally, if they be not subiects (bee they allies, coallies, enemies, or newters) are straungers. The coallies are the allies of our allies, which are not for all that our allies, no more than the companion of our associat is our companion; who yet neuerthelesse either in generall or speciall tearmes, are alwaies in all leagues comprised. As the lords of the three confederats of the Grises, the ancient allies of the Swissers, were in expresse tearmes comprised in the treatie of alliance made in the yere 1531, betwixt king *Frances* the first of that name, and the Swissers, in qualitie of coallies. But in the yere 1550 they were allies vnto the house of France; and comprised in the treatie of alliance renewed betwixt king *Henrie* and the Swissers, in qualitie of allies by alliance equall, in like degree and pension with the Swissers, that is to wit 3000 pound, for euerie league or confederacie, to take away the partialitie that was betwixt the one and the others. For although the Swissers were allied with the league of the Grises, by alliance equall by the treatie made betwixt the Grisons and the seven little Cantons, in the yere 1498: so it was yet neuerthelesse that they constrained the lords of the leagues of the Grises to obey the decrees made in their diets, if it should be there otherwise determined; which was like to haue broken the alliance betwixt the Grisons and the Swissers, in the yere 1565, for no other cause, (as said the Grisons) than to make the Swissers to know that they were their equals in alliance: but the truth is, that the emperour practised vnder hand, and gaue eleuen thousand crownes vnto certaine of the most factious of the Grisons, to make head, as they confessed afterwards being put to torture, and were condemned in a fine of ten thousand crownes; as I haue learned out of the Commentaries and letters of the French ambassadours, which then was sent vnto the Grisons. Wee haue also example of them of Geneva, who were comprised in the treaties of alliance made betwixt the house of Fraunce and the Bernois, in whose protection they then were; and so were since the yere 1527, vnto the yere 1558, that they exempted themselves out of protection, and entreated in alliance equall, and haue alwaies in alliance bene comprised in the qualitie of coallies.

But as those alliances which are defensue and offensue towards and against all persons without exception, are of all others the straitest and strongest: so also there is no alliance more vsure or weaker, than the simple alliance of commerce and traffique which may be euen betwixt enemies: which although it may seeme to bee grounded vpon the law of nations, yet we see it oftentimes to bee forbidden by princes in their own countries, least their subiects should riotously abuse the store of things broght in, or be pinched with the want of things carried out. And for this cause princes haue in this respect vsed particular treaties, & granted certaine special priueleges & liberties: as in the treaty of commerce or traffick betwixt the house of France & the port towns of the Easterlings, & the Milanois with the Swissers; wherein they are by the treaties of commerce bound to deliuer a certain quantitie of graine, at a certain price expressed in the said treaties, which the French ambassadors would oftentimes haue broken, for the doubt that the Swissers made to enter vpon the Milanois, enemies vnto the French, for feare the transportation of corne shuld haue bene forbidden: which when the gouernor of Millan had done, in the yere 1550, the Swissers were vpon the point to haue made alliance

Coallies who
they be.
Coallies alwaies
comprised in the
league of their
allies.

No alliance
more vsure or
weake, than the
simple alliance
of commerce and
traffick.

A alliance defensue with the Millanois , or at leastwise to haue had them excepted amongst the confederats as newters. The force of which league was, that such as were in the same league excepted, could not become prisoners to any the confederats; when as yet for all that strangers, although they were no enemies, were by the law prisoners to them that tooke them: For so *Pomponius* writeth vnto *Quintus Mutius*: For (saith he) if we haue neither friendship nor hospitalitie, nor league of amitie with any nation, these truly are not enemies: yet what thing soeuer of ours falleth into their hands becommeth theirs; insomuch that a free man borne of ours, by them taken, becommeth their slaue; and so likewise it is, if any thing come from them to vs: thus much he. But this law we now vse not, for regard of that curtesie which ought to bee betwixt man and man. But by the name of enemies we vnderstand them vnto whome we, or they vnto vs, haue publickly denounced warre; or els without any denuntiation haue of fact made warre vpon vs: as for the rest they are to be deemed of, as of theeues or pirates, with whome we ought to haue no societie or communitie. In auient time also there was a treatie of alliance to haue iustice done them in a straunge citie, as we read in the books of the Grecians; but at length by the great consent and agreement of all nations, the port of iustice hath by little and little bene still opened, as well to strangers as to citizens.

Who indeed are to be accounted enemies.

But in euerie alliance, league, confederation, or conuention whatsoeuer, it behoueth that the lawes of maiestie be vnto euerie prince or people reserved safe and vntouched: for otherwise the one should fall into the power and mercie of the other; as the weaker oftentimes are by the power & might of the stronger enforced to receiue lawes; which is not so in the treaties of alliance equall: wherein euen little cities are in the indifferent lawes of leagues equall vnto most mightie kings and people, being not bound either to obserue the maiestie of their more mightie confederats, or to giue them place. As a man may see in that treatie of alliance made betwixt the kings of Persia, & the seignorie of Thebes: For albeit that the Persian empire was bounded almost with the same bounds that the course of the sunne was, *viz.* from the riuage of Hellespontus vnto the remotest parts of India; and that the citie of Thebes was enclosed but in strait wals, and the countrey of Beotia; yet for all that were they both in the league of their alliance equall. Now where we said, that in alliance of protection, the protector hath a prerogative of honour; that is not to be vnderstood onely, that hee ought to be the chiefe allie, as was *Lewes* the eleuenth the French king with the Swissers, who did him that honour aboue the duke of Sauoy, who was before the chiefe: For alwayes the soueraigne prince be he neuer so little, in alliance equall, is maister in his owne house, and holdeth the first place aboue all other princes comming into his countrey: but if the protector himselfe come, he is the first both in sitting and all other honours.

In all alliances the soueraignie is still vnto all Princes, & people to bee reserved safe and vntouched.

But here might one say, Why should allies in league defensue & offensue against all without exception, vsing the same customes, the same lawes, the same state, the same diets, be reputed strangers one to another? Wee haue hereof example of the Swissers, who are allied amongst themselves, with such alliance as I haue said, since the yeare 1315; yet say I neuertheless that such alliance letteth not, but that they are still strangers one vnto the other, and maketh not that they are one citizens to the other. We haue also hereof example of the Latines, and the Romans, who were allies in league defensue and offensue, vsed the same customes, the same armes, the same language, and had the same friends and enemies: Whereupon the Latines maintained, that it was and ought to be one and the selfe same Commonweale; and therfore by their ambassadours demaunded to haue their part in the estate & offices of Rome, as had the Romans themselves. *Si societas (said they) equatio iuris est, si socialis exerci-*

Alliance maketh not but that men may still bee one of them strangers vnto another, & not of the same Citie or Commonwealth.

tus illis est quo duplicent vires suas; cur non omnia aquantur? cur non alter ab Latinis Consul datur? Vbi pars virium, ibi & imperij pars est. And immediatly after, Vnum populum, vnā rem publicā fieri æquum est. Tum Consul Romanus. Audi Iupiter hæc scelera: peregrinos Consules, & peregrinum Senatum in tuo templo, &c. If societie (said they) be an equalitie of right, if they haue their allies armie, whereby they double their strength: why then are not all things made equall? why is not one of the Consuls chosen of the Latines? where part of the strength is, there should also part of the gouernment be. And immediatly after, It is but right that there should bee but one people and one Commonweale. Then said the Roman Confull, Heare ô Iupiter these villanies, straunge Consuls, and a straunge Senat in thy temple, &c. So hee calleth them straungers which were allied vnto the Romans with the strongest alliance that was possible to deuise, insomuch that they seemed to be all of one and the selfe same citie. Yea *Festus* teacheth vs the Municipes (or enfranchised men) not to haue bene citisens: whose words we haue thought good here to set downe: *Municipium id genus hominum dicitur, qui cum Romam venissent, neque ciues Romani essent, participes tamen fuerunt omnium rerum ad munus fungendum vnâ cum Romanis ciuibus, præterquam de suffragio ferendo aut magistratu capiendo: sicut fuerunt Fundani, Formiani, Cumani, Acerrani, Lanuuii, Tusculani, qui post aliquot annos ciues Romani effecti sunt. Alio modo id genus hominum dicitur, quorum ciuitas vniuersa in ciuitatem Romanam venit, vt Aricini, Cerites, Anagnini. Tertio definiuntur ij qui ad ciuitatem Romanam ita venerunt, vt Municipia essent sue cuiusque ciuitatis colonia, vt Tiburtes, Prænestini, Pisani, Arpinates, Nolani, Bononienses, Placentini, Sutrii, Lucenses.* That kind of men (saith hee) is called Municipials, who comming to Rome and being no citisens, were yet partakers of all things together with the Roman citisens, except in giuing of voyces, and beating of offices; as were the *Fundani*, the *Formiani*, the *Cumani*, the *Acerrani*, the *Lanuuii*, and the *Tusculani*, who after certaine yeares were made citisens of Rome. And otherwise that sort of men is so called also, whose whole citie came into the citie of Rome; as the *Aricini*, the *Cerites*, and the *Anagnini*. And thirdly they who so came vnto the citie of Rome, as that the Colonies of euerie citie were accounted Municipials; as were the *Tiburtes*, the *Prænestini*, the *Pisani*, the *Arpinates*, the *Nolani*, the *Bononienses*, the *Placentini*, *Sutrii*, and *Lucenses*.

Now many I see to be in the same errour, as that the Swissers for like reason are all but one Commonweale: and yet it is most certaine that they be thirteene Commonweales, holding nothing one of another, but euerie one of them hauing the soueraignty thereof diuided from the rest. In former time their countrey was but one member of the German empire, gouerned by the emperours deputie. The first that rebelled were the inhabitants of Schwits, Vri, and Vnderuald, who treated of alliance both defensue and offensue, in the month of December, in the yeare 1315: whereof the first article was, That none of them should more admit the commaund of any prince, or endure any soueraigne prince ouer him. And afterwards in the yeare 1332 alliance was made of foure Cantons, which were called the foure townes of the wood, *viç.* Vri, Schwits, and Lucerne. And in the yeare 1351, Zurich entred into alliance with these foure. And in the yeare 1352 Zug was also receiued with these fiue; and the yeare following Berne. And afterwards in the yeare 1393, was made the treatie of Sempach (after that the nobilitie of the Swissers was by the commonaltie discomfited and ouerthrowne) wherein they of Zurich, Lucerne, Berne, Soleure, Zug, Vri, Schwits, Vnderuald, and Glaris, entred into alliance defensue and offensue; which they renewed in the yeare 1481. Basill was also receiued in the yeare 1501: Schaffuse also and Apenzel in the yeare 1513, Mulhouse in the yeare 1520, Rotwill in the yeare 1519. The Valesians also

That the Cantons of the Swissers are not one, but diuers Commonweales.

The beginning of the Swissers revolt from the Empire, and the first establishing of their Commonweales.

- A** in the yeare 1528, with whom beside the auntient treatie, a particular treatie was made betwixt them and the Bernoies for league defensue. Bienne also entred into league offensue and defensue with the Bernoies, in the yere 1352, after that they had exempted themselves out of the power of the bishop, of Basill their soueraigne prince. All which treaties of alliance, the abbat of Orbez, ambassadour for the French king vnto the Swissers, hath let me see. Whereby a man may not onely note the pluralitie of Commonweales, but the diuersitie of alliances also. For they of Berne may summon the three little Cantons of Vri, Schwits, and Vnderuäld, vnto their succour, by vertue of their first league: and they of Zurich and Berne, may reciprocally summon the one the other: they of Lucerne may of eight Cantons summon foue: And the three little
- B** Cantons of Schwits, Vri, and Vnderuäld, may summon all the rest of the Cantons vnto their aid, if they chaunce to be inuaded, and that for diuers causes. The assemblies of al the Swissers, except the Rharians, them of Geneva, and the Valesians, are holden euerie yeare: and whatsoeuer is decreed by the greater part of the ambassadours of the cities, bindeth them all in particular, and the lesfer part of the whole in common. The last that entred into the league vnder the protection of the Bernois, were they of Geneva. All these allies, confederats, and coallics, made two and twentie Commonweales, with the abbat of St. Gal a soueraigne prince; all seperated in soueraigntie, and euerie one of them hauing their magistrats apart, their state apart, their burse, their demaine and territorie apart. In briefe, their armies, their crie, their name, their money,
- C** their seale, their assemblies, their iurisdiction, their ordinances in euerie estate diuided. And if one of the Cantons of themselves get any thing, the rest haue no part therein: as the Bernoies haue well giuen to vnderstand: For since they entred into the league, they haue ioined vnto their owne domesticall gouernment little lesse than fortie towns, vpon whome they leuie men and money, and giue vnto them lawes: ouer which the other Cantons haue no power at all: as was iudged by *Frauncis* the first, the French king, by them chosen arbitrator in this matter: They of Basill also, when in the yeare 1560 they had lent fiftie thousand crownes vnto the French king, they tooke the Canton of Soleure to themselves in caution: but hauing by the common aid of al the Cantons taken in the bailiwiki of Lugan, with certaine other lands beyond the mountaines; euerie Canton by turne one after another, sent thither their magistrats and gouernours, for the administration of iustice; that so vnto euery Canton of the Swissers might be reserued their right and due. The towne also of Bade, where they commonly hold their yearely assemblies or diets, is common vnto eight Cantons, which after the victorie of Sempech ioined in league together. It is also (as I suppose) wel known vnto all men, how that they are not all of one and the same religion, but to bee therein diuided, and had therefore oftentimes taken vp arms one of them against another, if the French king had not wisely provided therfore; as well for the sincere loue and affection hee bare vnto them, as for the notable interest hee had to maintaine them in peace: for that of their health and welfate the securitie of Fraunce seemeth almost wholly
- E** to depend.

*Geneua the last
that entred into
league with the
Swissers, vnder
the protection
of the Bernois.*

But vnto manie it may seeme, that they altogether make but one estate, considering that, that which is decreed in their diets in common, bindeth euerie one of the Cantons, and the lesfer part of them all: as the seuen Cantons Catholike gaue well to vnderstand vnto the foure Cantons Protestants, at the diet holden in September, in the yeare 1554, insomuch that the common countrie situat beyond the mountaines, diuided in religion, and gouerned by the magistrats that euerie Canton sendeth thither by turne; it chaunced that the seuen Cantons Catholike caused them of the common countrie to bind themselves not to chaunge the religion Catholike: and so following

*The Cantons of
the Swissers di-
uided among
themselves for
religion.*

the same obligation would afterwards haue proceeded against them of the religion there, against whome the cantons protestants opposed themselues, and were now ready to haue entred into armes, had not the ambassadour of Fraunce stept in betwixt them, and wisely pacified the matter: yet for all that with this prouiso, That the common subiects of the religion should be punished (for chaunging their religion, contrary vnto the league) if the greater part of the cantons should be of that opinion, and that the cantons catholike should neuerthelesse redeliuer the letters obligatorie of the common subiects. By which meane their differences were againe well appeased. Wherunto the cantons of Glaris and Apenzel serued in good stead; who indifferently receiued both the one and the other religion, and made as it were an equall counterpoise betwixt the one of them and the other. So that it appeareth that the greater part of the cantons binderth the lesse, and euerie one of them in partticular. Yea and that more is, none of the cantons may haue alliance with any prince whatsoever without the whole consent of the rest. As the cantons protestants hauing made alliance with *Philip* the Landgrau of Hessen, and the seignorie of Strasburg, in the yeare 1532, were by the rest of their allies enforced againe to depart from the same. As in like case the cantons catholike were compelled to renounce their new alliance made with the house of Austria. And albeit that the five cantons catholike Lucerne, Uri, Schwits, Vnderuald, and Zug, had made alliance with Pope *Pius* the fourth, for the defence of their religion; yet could they not with any rewards (were they neuer so great) be enduced to renew the same with his successours. But when treatie was had, for alliance to bee made betwixt *Frauncis* the first, the French king, and the Swisssers, nothing more letted the same, than the opposition of the cantons protestants; who before instructed in the new religion, and perswaded by the earnest sermons of *Zuinglius* their preacher, who affirmed it to be vnlawfull for them to serue straunge princes in their warres, preuailed so much, that his followers and countrey men would no other wise make alliance with the king, but by the way of peace and friendship onely. But the leagues renewed with *Henry* the second, they of Basil and Schaffuse, with the catholike cities, ioyned themselues vnto the French, not in league of friendship onely, but in giuing of their aid also: when as for all that, they of Zurich and Berne, in the yeare 1554, forbad their subiects vpon paine of death to serue the French king in his warres. And the same yere the gouernors of the canton of Vnderuald, requested by the cardinall of Trent, That by their leaue hee might lenie certaine men in their countrey; forbad their subiects in generall, vpon paine of death, and confiscation of their goods, to go to serue any other prince than the French king: which are all vndoubted arguments to shew, that among the Swisssers there are as many Commonweals as there are cities or cantons. In like case the three confederat cities of the Grisons, which consist of fiftie companies or fellowships, haue their governments diuers one from another; and yet as oft as they haue their assemblies, the greatest citie of the Grisons vseth to send thereunto eight and twentie deputies, the second twentie foure, and the last fourteene: with power, that whatsoever the greatest part of these their deputies shall agree vpon, in matters concerning their common societie, shall bind euery one of them in partticular: and sometimes also in matters of greater importance all the people assemble themselues. Wherefore they are deceiued, which of those three cities would make one Commonweale. For common assemblies and meetings, common deniaines, common enemies and friends, make not the same Commonweale; no not although they haue the same boutse, or certaine common treasure: but the soueraigntie of power that euerie one hath to commaund or restraine their subiects: as in like case, if many heads of families should become partners of all their goods, yet should they not therefore make one and the selfe same familie.

None of the cantons may make alliance with any prince, without the whole consent of the rest of the cantons

- A** lie. The same opinion we may haue of the alliance contracted betwixt the Romans and the rest of the townes of Italie, combined in league both offensive and defensive, against all men without exception : who yet neuerthelesse were diuers Commonweales, divided both in their assemblies and soueraigntie. The like we may say of the league of the seuen townes of the Amphictioniques, who had their meetings and soueraigntie diuided : to whose example most of the townes and seignories of Greece afterwards entred into the same league and confederation, for the deciding of their controuersies : and euery yeare euery seignorie sent their ambassadours and deputies vnto the common estates, where the greatest affaires, proceedings, and differences, betwixt the princes and seignories, were determined by their deputies, whom they called
- B** *Myrios* : by whom the Lacedemonians were condemned to the seignorie of Thebes, in the summe of thirtie thousand crownes : and for not obeying the decree, were condemned in double thereof : for that contrarie to the treatie of peace, they had surprised the castle of Cadmee. The Phocenses also afterwards when they had robbed the holy treasure at Delphos, were by the decree of the Amphictioniques, enioyned to restore the money by them so euill taken out of the temple : for default of which doing, all their country was adiudged vnto the treasure of the temple : so that if there were any person which shewed himselfe disobedient vnto the decrees of the Amphictioniques, he therefore incurred the indignation of all Greece.

- Here might one say, That all Greece was but one Commonweale, considering the
- C** power of the Amphictioniques : and yet neuerthelesse there were almost as many diuers Commonweales, as cities, holding nothing one of them of another, neither of the states of the Amphictioniques ; but that they had so promised one to another, as princes haue accustomed to promise among themselues, and to chuse their allies for their arbitrators : which neither the Lacedemonians, nor the Phocenses had done, neither could against their wils be of right thereunto enforced. Yea the Phocenses to giue the Amphictioniques to vnderstand that they had no power ouer them, pluckt downe and tore in peeces the decrees of the Amphictioniques, fastened vnto the pillars of the temple of Delphos. Yet true it is, that *Philip* king of Macedon (being himselfe none of the league) tooke hereupon occasion to denounce the sacred warre vnto the Phocenses, and to ruinate their state : and in recompence thereof obtained the place and priueleges of the Phocenses : the Lacedemonians being also excluded out of the league of the Amphictioniques, for hauing giuen vnto them succours. The like league almost we also find to haue bene amongst the auncient Gaules, as is to bee seene in the Commentaries of *Cesar*, where he saith, That *Vercingetorix* chosen their generall, caused
- D** all the states of Gaule to be assembled. And albeit that the lords of Autun, of Chartres, of Geigoye in Auvergne, and of Beauuois, held nothing one of them of another ; and that the seignorie of Bourges was in the protection of Autun, and those of Viaron in the protection of Bruges, and so consequently the other townes in like sort : yet so it was, that all the princes and seignories passed their differences by the decrees and iudgements of the Druydes ; vnto whose censure if they refused to obey, they were by them excommunicated, and so of euery man shunned, as men of all others most detestable. And yet is it most manifest that these Commonweales which I haue spoken of, had their soueraignties diuided one of them from another, the territories of their cities certainly bounded out, and euery one of them their owne proper state and maiestie.
- E**

*The alliance of
the auncient
Commonweales
of Gaule.*

But it may also happen, that to become but one estate, one Commonweale, & one seignorie, when the partners of one league doe agree in the same soueraigntie : a thing not easie to be iudged, if a man looke not neere into it. As the league of the Achæans

The league of
the Achæans.

Whereof the
Swissers tooke
their name.

was not at the first but of three cities, diuided in estate, assemblies, and soueraigntie; allies by alliance equal, both defensue & offensue: who hauing the same enemies & the same friends, yet at the beginning kept euery one of them vnto themselves the maiesty of their owne citie. But being troubled with continuall warres, and enforced to hold their often assemblies, they by little and little became so straitly vnited together, that in fine they became but one Commonwealth composed of many: and in tract of time drew vnto their estate all the townes and cities of Achaia and Morea, they all retaining still the first name of the Achæans. As it happened vnto them of the league, whome they call Swissers; for that the canton of Schwits, the least of all the rest, was the first that reuolted, after that they had slaine their gouernor. And as the Achaians were called the correctors of tirants, so also the Swissers (to their great praise) carried this title of honour. The townes also of the kingdome of Naples, after the massacre of the Pithagorians, being much troubled, and not knowing vnto whome to haue recourse, cast themselves into the protection of the Achaians. But the author and meane of all these cities, to make one and the same Commonweale, was *Aratus*, who procured it to be decreed by the estates, That euerie yere one chiefe generall should bee chosen to commaund in their warres, and to gouerne their estates: and hee was prince of the Achaians, that is to say, the first that called together their assemblies. And whereas before euerie citie sent their ambassadours and deputies with instructions vnto the assemblee of the Achaians (as the Swissers vse to doe) there to giue their voyces deliberatiue: *Aratus* brought to passe, that the assemblee of the ambassadours and deputies so sent, should make choyce of ten principall men, whome they called Demiurges, who alone had voices deliberatiue, and power to resolute, to determine, and decide matters of state: the rest of the ambassadours and deputies hauing onely voyces consultatiue. These two points gained, there by little and little grew vp an Aristocraticall Commonweale, in stead of diuers particular Monarchies, Aristocracies, and popular Seignories: many tyrants partly for loue, pattly for feare, being drawne thereunto. Now all the spoyle of the enemies, and conquests made by the generals, were not any one cities, but belonged to them all. So that at length such was the vnion and consent of the confederats, that all the townes of Achaia and Morea being made subiect, vnited, and incorporat vnto the state of the Achaians, vsed the same lawes, the same right, the same customes, the same religion, the same tongue, the same language, the same discipline, the same manners, the same money, the same weights and measures, as saith *Polybius*. The kings of Macedon entred also into this league; yea the two *Philips*, *Antigonus*, and *Demetrius*, were chosen chiefe captaines of the Achaians, holding neuerthelesse their realme seperated apart from the seignorie of the Achaians. And the Romans knowing well that they could not possibly conquer Greece, the league of the Achæans standing whole, gaue commaundement vnto *Gallus* their Proconsull, by all meanes possible to doe what he might to breake the same; which hee not in vaine attempted. For diuers cities complaining vnto the states, that vnder colour of a league and alliance equall, they had taken from them the managing of their estate and soueraigntie; and assuring themselves of the aid of the Romans, reuolted from the communitie of the Achaians: to meet wherewith, and to stay the other cities from doing the like, *Aratus* obtained commission from the states to enforce against these rebels: after which the cities before reuolted, put themselves into the protection of the Romans; yet with prouiso, that their estate and soueraigntie should remaine vnto them still. But when the power of the Romans seemed vnto the rest of the Achæans inuincible, they for the safegard of their libertie, entred into amitie with the Romans also; yet with condition, That the Lacedemonians, whome the Romans had in a manner drawne

A drawne from the state of the Achæans, should from thenceforth be vnder the protection and power of the Achæans, except in case concerning the life or goods of a Lacedemonian citizen, wherewith the Achæans might not meddle. Which was by the Romans most subtilly done: that so there might still be matter of perpetuall discord and ciuill warre betwixt the Lacedemonians and the Achæans. For if the Lacedemonians had bene altogether in power of the Achæans, they had with their wealth greatly augmented the strength of the associats: and on the other side if the Romans should haue left them altogether free, it was to be feared least they should together with their wonted valour, haue recouered their auntient Commonweale also. The like deceit they vſed also against the Ætolians, which was another estate and league diuided from the Achæans, composed of three cities, who had also their estate, assemblies, & ſoueraigntie diuided; but in fine, following the example of the Achæans, they of three Commonweals allied with alliance equall, both deſenſiue and offenſiue, eſtabliſhed one Aristocraticall Commonweale, mannaged by the ſtates of the three confederats, & by one common Senat, wherein was preſident one chiefe captaine euery yeare choſen. The like we may ſay of the three and twentie cities of Lycia, which eſtabliſhed one Aristocraticall Commonweale, like vnto that of the Achæans; ſauing that the deputies of the greater cities had in their generall assemblies three deliberatiue voices, the meaner citizens two, and the reſt but one; as ſaith *Strabo*: and moreouer out of the eſtates they choſe a captaine generall, whome they called the Lyciarque, and ſo the other magiſtats and iudges of all the cities alſo. Other alliances alſo and leagues there were of the thirtene cities of Ionia, of the twelue cities of Tuſcanie, and of the fortie ſeuene cities of the Latines, ſtrongly made by alliance equall, both deſenſiue and offenſiue, holding their assemblies of their ſtates euery yeare, and chuſing alſo ſometimes (but not euery) a chiefe captaine or generall, eſpecially in time of warre: and yet neuertheleſſe the ſoueraigntie of euery citie continued in the eſtate of it ſelfe, as doth the Swiſſers. For albeit that the citie of Rome was entred into league with the Latines, and that *Seruius Tullius*, and *Tarquin* the proud king of Rome, had bene choſen chiefe captaines of the league of the Latines; yet ſo it is neuertheleſſe, that euery citie kept ſtill the assemblies and ſoueraigntie thereof: and yet the kings of Rome loſt nothing thereby of their maieltie. Now it ſeemeth at the firſt ſhow, that ſuch leagues of cities were like vnto thoſe of the Achæans: but the like thereof there is not one, except thoſe of the Ætolians: and at this preſent the eſtate of the empire of the Germans, which we will in due place ſhow to bee no monarchie, but a pure Aſtocratie, composed of the princes of the empire, of the ſeuene electors, and the imperiall cities. Yet this is a thing common to all confederat cities, that in time of warre they haue vſed to make one generall captaine, euery yeare to be choſen, or els once for all. For as the ſeignorie of the Achæans choſe for their captaines the kings of Macedon, *Antigonus*, and *Philip* the ſecond; and the league of the Ætolians made choiſe of *Attalus* king of Aſia, as ſaith * *Liuius*; and likewise the Latines, of the kings of Rome, and other their neighbour princes: ſo alſo the electors haue oftentimes choſen ſtraunge princes, as *Henrie* of Lutzeburg, *Alphonſus* the tenth, and *Charles* the fiſt, kings of Caſtile; who although they were ſoueraignes in their owne realmes, were yet neuertheleſſe ſubiects to the empires, as captaines in chiefe. For as a captaine in chief, being nor ſoueraigne to them that haue choſen him, maketh not them of the league to be one Commonweale: ſo alſo he chaungeth in nothing the eſtate and vnion of the Commonweale whereunto hee is called. So *Philip Valois* the French king, was choſen generall of the eccleſiaſticall forces, as we ſee in that league which was made betwixt *Philip Valois*, & *Henry* count Palatine, who was afterwards of the Germans choſen emperour. And not long ſince *Adolphus* vncle

The league of
the Ætolians.

The league of
the Lycians.

The league of
the 13. Cities of
Ionia. The 12.
Cities of Tuſ-
canie: and the
47. Cities of the
Latines.

* Lib. 27.

A General choiſe
by many Ci-
ties or States in
League together,
maketh not them
that haue ſelected
him euery a
while the more
one Common-
weale.

to the king of Denmarke, was chosen chiefe captaine of the league of the Hauns cities. **F**
 The Venetians also as oft as they are to make warre, haue vsed to make choyce of any
 straunge generall, rather than of a citisen of their owne. But the German emperours
 take vpon them a stile of much higher qualitie than of Captains in chief, or Generall;
 auouching themselues not onely to bee cheife captaines and magistrats, but euen mo-
 narchs also: which whether it be so or no, we will in due place declare. They pretend
 also to haue power to commaund not onely the princes of the empire, but euen them
 also who hold of them nothing. For it is not long since that the emperour *Ferdinand*
 sent his ambassadours vnto the Swislers, to the end they should not receiue *Grombach*,
 nor the conspiratours his adherents, banished out of the empire: which thing, when
 the emperour seemed by his letters rather to commaund than to request; the Swislers **G**
 (a free people) were therewith not a little moued. And before that also, *Morlet Musa*
 ambassadour for the French king vnto the Swislers, certified the king, How that the
 gouernour of Milan (as hauing such charge from the emperour) had forbidden the car-
 dinall of Syon to enter into league with the French king, for that hee was a prince of
 the empire: of which his commaund the cardinall made no great account, but without
 regard of his prohibition made alliance with the French king; from whome he recei-
 ued twelue hundred pounds pention yearly. True it is, that in all the leagues of the
 Swislers with fortien princes, the empire is alwayes excepted, if there be not thereof ex-
 presse mention made. And for that cause *Guiche* the kings ambassadour to the Swif-
 sers had thereof expresse charge (as I haue seene by the instructions that were giuen **H**
 him) to make mention of the emperour in the treatie of alliance, of the yere 1521. For
 the Germans grounded themselues vpon a maxime, in vertie whereof the emperour
Sigismund caused the Swislers to take vp armes against *Frederick* of Austria, to the pre-
 iudice of the alliance made with the house of Austria: presupposing that the empire
 was superiour vnto the Swislers, and that in all treaties of alliance, the right of the su-
 perior is still to be excepted, although there be thereof no expresse mention made.
 Which is certaine, for as much as concerneth the lawes of maiestie; but the Swislers
 confesse not that the emperor hath any superioritie ouer them, and much lesse the em-
 perour, subiect to the states of the empire. It is also true, that by the treatie made betwixt
 the eight auntient cantons, there is an expresse clause, whereby the cantons of Zurich,
 Berne, Schwits, and Vnderualden (as hauing sometime bene part of the German em-
 pire) declared, That for their part they entended to comprehend in that treatie the ma-
 iestie of the sacred empire, the right whereof they purposed not to preiudice by that
 treatie of alliance. And within a few yeares after, the cantons of Zurich, Berne, Lu-
 cerne, Vri, and Glaris, in the name of all the cantons of the Swislers, sent their ambas-
 sadours to obtaine the confirmation of their auntient priueledges, of *Ferdinand*, then
 holding a diet of the states of the empire, at Ausburg. And by the treaties of alliance
 made betwixt the sacred empire and the cities of the cantons, it is expressly articulated,
 That they should not giue any aid vnto any straunge prince, to make warre vpon the
 territorie of the empire; as I haue learned by a copie of the letters of the emperour **K**
Charles the fift, written to the lords of the cantons; whereby hee complaineth, That
 their subiects ioyned with the forces of the French king, had entred vpon the territo-
 ries of the empire, contrarie to the expresse tenour of the alliance that they had with
 the empire. And not long after, he by other letters demandeth of the lords of the can-
 tons to punish their subiects, who had inuaded the territories belonging to the house of
Austria, contrarie to the hereditarie alliance made betwixt the princes of the house of
Austria and the Swislers, in the yeare of Grace 1467, and renewed in the yere 1501,
 in which league, the See of Rome, the Pope, and the empire, are excepted: and a yere-
 ly

The Swislers in
 all their leagues
 with fortien
 Princes still ex-
 cept the Empire

- A** ly pention set downe , of two hundred florins to be yearely paid vnto euery canton. Which alliance was againe renewed by the xiiij cantons, at the diet of Bade holden the xx day of Iuly 1554. As for the league betwixt the said lords of the cantons , and the French king, it was onely a league defensue, for the preservation of the states of the allies, and not for the invading of forreners : which are the true reasons for which the Swislers are withholden to invade the territories of the empire, and of the house of *Austria* ; and not for the right of any preheminence, or superiouritie that the empire hath ouer them. Which is also yet more expressely verified by the treatie of alliance, renewed betwixt the French king and the lords of the cantons, in Iune 1549, out of which are excluded all such as are not subiect to the Swislers ; nor vse not the German tongue.
- B** And that is it for which *Charles* the fift, the emperour, laboured by all meanes to make agreement with the Swislers, that the dukedome of Millan, with the kingdoms of Naples and Sicilie, might be comprised in the hereditarie treaties of alliance , made with them for the house *Austria* : which the Swislers flatly refused to grant in the yere 1555. The same we may iudge of the cities of the Grisons , rent from the German empire, who sufficiently declared themselves to bee in nothing bound vnto the edicts of the empire, or of the emperor ; in that they would not accept euen of a German prince by the emperor appointed to be their bishop : but the 3 cities of the Grisons, being at variance among themselves, about the choice of their bishop, the Swislers by the authority of the league, taking vpon them to be arbitrators of all controuersies arising betwixt the confederat cities, without any regard had to the prouision of the pope, or confirmation of the emperor appointed him to be bishop which was chosen by the Chapter, subiect to the Grisons ; and decreed, that from that time forward hee should be bishop whome the league of the Cadde should make choyce of.

- Now seeing that our reasoning is of leagues, and of lawes of armes, question might be made, Whether it be lawfull for subiects to entreat of any particular league or alliance among themselves, or with other forren princes, without the leaue or consent of their owne soueraignes ? Such alliances, and especially with strangers, princes haue vsed to embarre, for the euill consequences that might ensue thereon : and namely the king Catholike by expresse edicts hath forbidden all his subiects so to do . And at such time
- D** as *Lewes* of Fraunce, duke of Orleanse (he which was slaine at Paris) was charge with many matters, nothing was more grieuouly objected against him beeing slaine , than that he had secretly entred into league with *Henrie* duke of Lancaster . Yet for all that the princes of the empire thinke it lawfull for them so to doe : and for their owne safetie to enter into league of alliance, both among themselves, and with other forren princes, so that it be done without the preiudice of the German empire . For whatsoeuer leagues are by them otherwise made, are void and of none effect . But when the empire is excepted, the emperour himselfe is not therefore excepted , as hath oftentimes but neuer more plainly bene vnderstood, than in the league which many of the German princes made with *Henrie* the second, the French king, at Chambort, for the defence of the German empire, against the emperour *Charles* the fift, in the yere 1552. In which league they acknowledged king *Henry* for their superiour, promising curteously to reuerence his maiestie ; and so by their common consent made him generall of their warres, calling him The Protectour of Princes , and of the libertie of the empire . And in the yere 1559 the like alliance both defensue and offensue was made betwixt the king of Sweden, the marques Alseberg, the duke of Brunswich, the duke of Cleue, the prince of Orange, the countie Aiguemont, and diuers other imperiall townes on the one part, and the king of Denmarke, the duke of Saxonie , the Landgraue of Hesse, the duke of Holste, the duke of Bayere, the towne of Nuremberg, the
- bishops

Not lawfull for
subiects to en-
treat of any par-
ticular league or
alliance among
themselves, or
with forren prin-
ces, without the
leaue or con-
sent of their owne
soueraignes.

bishops of Wirciburg, and Bamberg, the towne of Lubec, and diuers other, with *Sigismund Augustus* king of Polonia, on the other part. Yea the emperour *Charles* the fitt himselfe made particular alliance with the duke of Bauaria, and other the catholike princes, to chuse his brother *Ferdinand* king of Romans. And a little after also the league of Franconia was made betwixt the house of *Austria*, the duke of Bauaria, the three bishops of Franconia, the archbishop of Salisburg, and the cities of Nuremberg and Ausberg. And *Ferdinand* also king of the Romans, for the catholike religion sake made a particular league with the bishop of Salisburg against the protestants, in the yeare 1556. Wee haue seene also the league which was called The league of Sueuia, to haue made alliance offensive and defensive for 40 yeares, without excepting any thing saue the empire. And the like league also betwixt the Sea townes, which they call the Vandales, that is to wit, Lubech, Hambourg, Vimar, Rostoc, Bresme, Suid, imperiall townes, chusing for their chiefe captaine *Adolph* vnckle to the king of Denmarke, who was not any way subiect to the empire. Yet in all these leagues was euer excepted the maiestie of the German empire. Yea that more is, the nobilitie of Denmarke entred into a league defensive with *Sigismund Augustus* king of Polonia, & the towne of Lubec, against the king of Denmarke himselfe: greater treason than which none could haue bene deuised, if the king of Denmarke had the highest power ouer his people, and were an absolute soueraigne: of which matter, and of all the law of armes wee will in due place reason: but first it behoueth vs to speake of maiestie, or Soueraigntie.

A foule and rebellious league of subiects against their prince.

CHAP. VIII.

¶ Of Soueraigntie.

The definition of Maiesty or Soueraigntie.



MAiestie or Soueraigntie is the most high, absolute, and perpetuall power ouer the citisens and subiects in a Commonweale: which the Latines call *Maiestatem*, the Greeks *ἀρχὴν ἐξουσίαν*, & *κυρίαν ἀρχήν*, and *κύριον πολέτευμα*; the Italians *Signoria*, and the Hebrewes *תדמר שכת*, that is to say, The greatest power to commaund. For maiestie (as *Festus* saith) is so called of mightinesse. For so here it behoueth first to define what maiestie or Soueraigntie is, which neither lawyer nor politicall philosopher

hath yet defined: although it be the principall and most necessarie point for the vnderstanding of the nature of a Commonweale. And forasmuch as wee haue before defined a Commonweale to be the right gouernment of many families, and of things common amongst them, with a most high & perpetuall power: it resteth to be declared, what is to be vnderstood by the name of a most high and perpetuall power. We haue said that this power ought to be perpetuall, for that it may bee, that that absolute power ouer the subiects may be giuen to one or many, for a short or certaine time, which expired, they are no more than subiects themselves: so that whilst they are in their puissant authoritie, they cannot call themselves Soueraigne princes, seeing that they are but men put in trust, and keepers of this soueraigne power, vntill it shall please the people or the prince that gaue it them to recall it; who alwaies remained seased thereof. For as they which lend or pawne vnto another man their goods, remaine still the lords and owners thereof: so it is also with them, who giue vnto others power and authoritie to iudge and commaund, be it for a certaine time limited, or so great and long time as shall please them; they themselves neuertheless continuing still seased of the power and iurisdiction, which the other exercise but by way of loane or borrowing.

That Soueraigntie consisteth in a perpetuall power.

K

A ing. And that is it for which the law saith, That the gouernour of a countrey, or lieutenant of a prince, his time once expired, giueth vp his power, as but one put in trust, and therein defended by the power of another. And in that respect there is no difference betwixt the great officer and the lesser: for otherwise if the high and absolute power graunted by a prince to his lieutenant, should of right be called Soueraigntie, he might vse the same against his prince, to whome nothing was left but the bare name of a prince, standing but for a cipher: so should the subiect commaund his Soueraigne, the seruant his maister, than which nothing could be more absurd: considering that in all power graunted vnto magistrats, or priuat men, the person of the prince is alwaies to be excepted; who neuer giueth so much power vnto another, but that hee alwayes keepeth more vnto himselfe; neither is euer to be thought so deprived of his soueraigne power, but that he may take vnto himselfe the examination and deciding of such things as he hath committed vnto his magistrats or officers, whether it be by the way of preuention, concurrence, or euocation: from whome he may also take the power giuen them by vertue of their commision or institution, or suffer them to hold it so long as shall please him. These grounds thus laid, as the foundations of Soueraigntie, wee conclude, that neither the Roman Dictator, nor the Harmoste of Lacedemonia, nor the Esmynat of Salonick, nor he whom they cal the Archus of Malta, nor the antient Bailly of Florence, (when it was gouerned by a popular state) neither the Regents or Viceroyes of kingdoms, nor any other officers or magistrats whatsoeuer, vnto whom

C the highest, but yet not the perpetual power, is by the princes or peoples grant committed, can be accounted to haue the same in Soueraignty. And albeit that the antient Dictators had all power giuen them in best sort that might be (which the antient Latines called *Optima Lege*) so that from them it was not lawfull to appeale, and vpon whose creation all offices were suspended; vntill such time as that the Tribunes were ordayned as keepers of the peoples libertie, who continued in their charge notwithstanding the creation of the Dictator, who had free power to oppose themselues against him; so that if appeale were made from the Dictatour, the Tribunes might assemble the people, appointing the parties to bring forth the causes of their appeale, & the Dictator to stay his iudgement; as when *Papirius Cursor* the Dictator, condemned *Fabius Max.*

D the first, to death; and *Fabius Max.* the second had in like manner condemned *Minutius*, both Colonels of the horsemen, for that they had fought with the enemy contrary to the commaund of the Dictator; they were yet both by appeale and iudgement of the people acquitted. For so saith *Liuius*, *Then the father of Fabius said, I call vpon the Tribunes, and appeale vnto the people, which can do more than thy Dictatorship: whereunto king Tullus Hostilius gaue place.* Wherby it appeareth that the Dictator was neither soueraigne prince, nor magistrat, as many haue supposed; neither had any thing more than a simple commision for the making of warre, the repressing of sedition, the reforming of the state, or instituting of new officers. So that Soueraigntie is not limited either in power, charge, or time certaine. And namely the ten commissioners established for the reforming of customes and lawes; albeit that they had absolute power, from which there was no appeale to be made, and that all offices were suspended, during the time of their commision; yet had they not for all that any Soueraigntie; for their commision being fulfilled, their power also expired; as did that of the Dictators. So *Cincinnatus* hauing vanquished the enemy, forthwith discharged himselfe of the Dictatorship, which he had not had but fiftene dayes, *Seruilus* in eight dayes, *Mamercus* in one day. And the Dictator was also named, not by the Senat, or the people, neither by the magistrats, or request made vnto the people, nor by any laws which were alwayes necessarie to the creating of officers, but by an interrex, or a king

E

* Liui. lib 7.
The dictator of
Rome, neither
soueraigne prince
nor magistrat.

created for a time, borne of honourable blood: for why, it was not enough for him to be a noble Senator onely, that should name the Dictator. Now if one should say, that *Sylla* was by the law *Valeria* made Dictator for threescore yeares: I will aunswere as *Cicero* did, That it was neither Dictatorship nor law, but a most cruell tyrannie; whereof for all that he discharged himselfe the fourth yere after he was made Dictator, when as he with the blood of the citisens had quenched the flames of the ciuill warres; hauing yet still in the meane time reserved vnto the Tribunes their free power to oppose themselves against his authoritie. And although *Cæsar* fortie yeares after had inuaded the perpetuall Dictatorship together with the libertie of the people, yet left hee vnto the Tribunes of the people, their power to oppose themselves against his proceedings: but when as before, *Pompeius* being Consull, the verie name of the Dictatorship was taken out of the Commonweale, and *Cæsar*, contrarie to the law of *Pompeius*, had procured himselfe by the law *Seruia*, to be created Dictator, hee was by the conspiracie of the Senators slaine in the middest of the Senat. But let vs graunt an absolute power without appeale or controlement, to be graunted by the people to one or many to mannage their estate and entire gouernment: shall wee therefore say him or them to haue the state of Soueraigntie, when as hee onely is to bee called absolute soueraigne, who next vnto God acknowledgeth none greater than himselfe? wherefore I say no soueraigntie to be in them, but in the people, of whom they haue a borrowed power, or power for a certaine time, which once expired, they are bound to yeeld vp their authoritie. Neither is the people to be thought to haue depriued it selfe of the power thereof, although it haue giuen an absolute power to one or moe for a certaine time: and much more if the power (be it giuen) be reuocable at the pleasure of the people, without any limitation of time: For both the one and the other hold nothing of themselves, but are to giue account of their doings vnto the prince, or the people of whome they had the power so to commaund: whereas the prince or people themselves, in whome the Soueraigntie resteth, are to giue account vnto none, but to the immortall God alone.

But what if such absolute power as we haue spoken of, be giuen to one or moe for nine or ten yeares? as in auncient time in Athens the people made one of the citisens their soueraigne, whome they called Archon. I say neuerthelesse that hee was no prince, neither that the Soueraigntie of the state rested in him: albeit that hee was a soueraigne magistrat, but yet countable of his actions vnto the people, his time beeing expired. Yet might one say, What if that high & absolute power which we haue spoken of, were giuen to one or moe, for a yere, with condition not to giue any account at all for their doings: For so the Cnidiens euery yere chose 60 of their citisens, whome they called Amymones, that is to say, Men without imputation, with such soueraignty of power, as that they might not be called to account for any thing that they had done, neither during the time of their charge, nor after that the same was expired: I say yet for al that, that the soueraigntie of the state was not in them, seeing that they were bound at the yeares end to restore againe vnto the people, the authoritie they were put in trust withall; the Soueraigntie still remaining with the people, and the execution thereof with the Amymones, whome a man might well call soueraigne magistrats, but not simple Soueraignes. For the one was the prince, the other the subiect; the one the lord, the other the seruant; the one the proprietarie and seised of the Soueraigntie, the other neither proprietarie nor possessed thereof, neither holding any thing thereof, but as a feoffer or keeper in trust.

The same we may say of the Regents of Fraunce, created for the infancie, furie, or absence of the king, whether the edicts, mandats, and letters patentes, be signed and sealed

Who is to be
called an absolute
soueraigne.

The great Archon
of Athens
no soueraigne.

The Amymones
soueraigne magistrats,
and yet not simple
soueraignes.

The Regents
of Fraunce.

A led with the signe and seale of the Regents, and in their name (as they did before the law of *Charles* the fift the French king) or els that it be done in the name of the king, and the mandats sealed with his seale: for in that there is little or no difference at all: seeing that whatsoeuer is done by the attorney, the lord allowing the same, may well be thought to be done by the lord himselfe. Now the Regent is the true protectour of the king and of his kingdome: for so the good countie *Theobald* called himself *Procuratorem regni Francorum*, that is to say, Protectour of the kingdome of Fraunce. So when a prince giueth absolute power to a Regent, or to a Senat, in his presence, or in his absence, to gouerne in his name; albeit that the edicts or letters of commaund go in his or their name, yet is it alwaies the king that speaketh or commaundeth. So we see

B that the Senat of Milan or Naples, in the absence of the king of Spaine hath absolute power to dispatch all mandates in his name: As a man may see by the decree of the emperour *Charles* the fift in these words. *Senatus Mediolanensis potestatem habeat constitutiones principis confirmandi, infirmendi, tollendi, dispensandi, contra statuta, habilitati- ones, prerogationes, restitutiones faciendi, &c. A Senatu ne prouocari possit, &c. Et quicquid faciet, parem vim habeat ut si a principe factum ac decretum esset: Non tamen possit delictorum veniam tribuere, aut literas salui conductus reis criminum dare.* That is to say, The Senat of Milan hath power to confirme the constitutions of the prince, as also to infirme the same, to disanull them, to dispense with them contrarie to the statutes, to make enablements, prerogatiues, and restitutions, &c. No appeale shall be made from the Senat, &c. And whatsoeuer it shall doe, shall haue like force as if it were done or decreed by the prince: yet may it not graunt pardon for offences committed, or giue letters of safe conduct vnto parties conuicted. This power almost infinit, is not giuen vnto the Senat of Milan and Naples, in any thing to diminish the maiestie of the king of Spaine, but altogether to the contrarie, to ease him of his care and paines: ioyne hereunto also, that this power how great soeuer it be, is to be reuoked at the pleasure of him that gaue it.

The Senat of Milan, or Naples, what power it hath in the absence of the king of Spaine.

But suppose that such great power be giuen to a kings lieutenant, or the gouernour of a countrey for tearme of his life, is not that a soueraigne and perpetuall power? For otherwise if we should interpret that onely to be a perpetuall power which shall neuer haue end, there should be at all no soueraigntie, but in the Aristocraticall and popular state, which neuer dieth except it be vterly rooted out. Or if we vnderstand the word Perpetuall, in a monarch for him and his heires, there should be few perpetuall soueraigne monarches, seeing there bee but few that be hereditarie; so that they which come to the crowne by way of election, should not be soueraignes: wherefore we must vnderstand the word Perpetuall, for the tearme of the life of him that hath the power. Now if the soueraigne and annuall onely, or which hath a certaine prefixed and limited time to rule, chance to continue his gouernment so giuen him, beyond the appointed time; that must either be by the good liking of him that gaue the power, or els by force: if by force, it is called tyrannie; and yet neuerthelesse the tyrant is a soueraigne: as the violent possession of an intruder is in nature a possession, although it be contrarie to the law, and they which had the possession before are so thereof disseised: but if such a magistrat continue his soueraigne power by the good liking of the superiour that gaue it him, wee will not therefore say that hee is a soueraigne prince, seeing that he holdeth nothing but by sufferance; and that a great deale the lesse; if the time be not limited, for in that he hath nothing but by commission during pleasure: and he that so holdeth his power, is neither lord nor possessor thereof. Men knowright well, that there was neuer greater power giuen to magistrat next vnto his prince, than that which was of late yeares graunted to *Henric* of France, duke of Anion, by king

Princes, lieutenants or gouernours of countreies for tearme of life, yet no soueraignes.

Henric duke of Anion.

Charles the ninth his brother, for it was most great and perpetuall, without any exception of the regall power: yet for all that one cannot say that it was soueraigne, inasmuch as he was called Lieutenant General for the king, *So long as it shall stand with our good pleasure*, ioyned vnto it in his letters patents: which wel declareth a power but during pleasure. Which power of lieutenantancie (as of all other magistracies) ceaseth in the presence of the prince.

How the people
may create a so-
ueraigne Mo-
narch.

The regall, or
royall law.

Hector Boet. in
hist. Scot.

Vnto soueraig-
tie belongeth ab-
solute power, and
what that abso-
lute power is.

But what shall we then say of him to whom the people haue giuen absolute power so long as he liueth? in this case we must distinguish: If such absolute power bee giuen him purely and simply without the name of a magistrat, gouernour, or lieutenant, or other forme of deputation; it is certaine that such an one is, and may call himselfe a Soueraigne Monarch: for so the people hath voluntarily disseised and dispoyled it selfe of the soueraigne power, to sease and inuest another therein; hauing on him, and vpon him transported all the power, authoritie, prerogatiues, and soueraignities thereof: as if a man should by pure gift deliuer vnto another man the proprietie and possession that vnto him belongeth: in which case such a perfect donation admitteth no conditions. In which sort the regall law is by the lawyer laid to haue bene made in these words, *Cum populus ei & in eum omnem potestatem contulit*: when as the people conferred vnto him, and on him all their power. But if the people shall giue all their power vnto any one so long as he liueth, by the name of a magistrat, lieutenant, or gouernour, or onely to discharge themselves of the exercise of their power: in this case he is not to be accounted any soueraigne, but a plaine officer, of lieutenant, regent, gouernour, or guerdon and keeper of another mans power. For as the magistrat, although hee make a perpetuall lieutenant, and hath no care of his own iurisdiction, leauing the entire exercise thereof vnto his lieutenant, yet for all that, it is not in the person of the lieutenant that the power lyeth to commaund, or iudge, neither the exercise and force of the law: but if he passe beyond the power vnto him giuen, it is to none effect; if his doings bee not ratified, liked, and approued by him that hath giuen the power. And for this cause king *Iohn* of Fraunce, led prisoner into England, after his returne thence, solemnly ratified all the acts of *Charles* the Dolphin, his eldest sonne, made regent in his absence, to strengthen and confirme the same, so farre as should be conuenient and needfull. Be it then that a man either by commission, or institution, or by delegation, for a certaine time, or for euer, exercise the power of another man: he that so exerciseth this power, is not therefore a soueraigne, although that by his letters of commission or deputation he be not called a protector, lieutenant, regent, or gouernour: no not, albeit that such power be giuen him by the customs and lawes of the countrey, which should be much stronger than election. As by an auncient law amongst the Scots, the entire gouernment of the kingdome was committed vnto him that was neereft of blood vnto the king in his minoritie, or vnder the age of xxv yeares, yet with charge that all things should be done in the kings name: which law was long ago abrogated, for the danger might grow vnto the young king, by his nigh kinsmen affecting the kingdome: for which, *Cesar* thought it lawfull for a man to become villanous.

Now let vs prosecute the other part of our propounded definition, and show what these words, *Absolute power*, signifie. For we said that vnto Maiestie, or Soueraigntie belongeth an absolute power, not subiect to any law. For the people or the lords of a Commonweale, may purely & simply giue the soueraigne and perpetuall power to any one, to dispose of the goods and liues, and of all the state at his pleasure: and so afterward to leaue it to whome he list: like as the proprietarie or owner may purely and simply giue his owne goods, without any other cause to be expressed, than of his owne meere bountie; which is indeed the true donation, which no more receiueth condition, being

- A being once accomplished and perfected: as for the other donations, which carrie with them charge and condition, are not indeed true donations. So also the chiefe power giuen vnto a prince with charge and condition, is not properly soueraigntie, nor power absolute; except that such charge or condition annexed vnto the soueraigntie at the creation of a prince, be directly comprehended within the lawes of God and nature. As it is at the inuesting of the Tartar king. For the great king of Tartarie beeing dead, the prince and the people to whome the right of the election belongeth, make choice of one of the kinsmen of the dead king, which they thinke best of (prouided that he be either his sonne or his nephew) and hauing placed him in a throne of gold, the bishop (after a solemne song sung according to the manner of their auncestours) turning his speech vnto the king, in the name of the people, saith thus, Wee pray thee, and charge thee to raigne ouer vs: to whom the king aunswereth, If you will haue me so to doe, you must be readie to performe whatsoeuer I commaund; whomsoeuer I appoint to be slaine, you shall slay him presently, and into my hand you shall commit the whole estate of the kingdome: whereunto the people aunswere, Bee it so: after which the king continuing his speech, saith, My word shall be my sword: whereunto the people giueth a great applause. This done, he is taken out of his high throne, and set vpon the ground vpon a bare boord, vnto whome the bishop againe turning his speech, saith, *Looke vp vnto heauen and acknowledge almighty God, the king of the whole world: and behold also this table whereon thou sittest below: if thou rule well, thou shalt haue all things according to thy harts desire; but if thou forget thy dutie and calling, thou shalt be cast headlong downe from thy high seat, and dispoiled of thy regall power and wealth, bee brought so low, as that thou shalt not haue so much as this boord left thee to sit vpon.* This said, hee is lifted vp on high, and by all the people proclaimed king of the Tarrars. This so great a power giuen by the people vnto the king, may wel be called absolute and soueraigne, for that it hath no condition annexed thereunto, other than is by the law of God and nature commaunded.

*The forme of
choosing the
great king of
Tartarie.*

- The same or like forme of inuesting we may also see to haue bene sometimes vsed in realmes and principalities, descending by succession. But the like is not to that of Carinthia, where yet at this present neere vnto the citie of St. Vitus, in a meddow is to be seene a marble stone, whereunto a countrey peasant vnto whom that office of right belonged, stept vp, hauing vpon his right hand a blacke cow, and on his left a leane euill fauoured mare, and all the people about him; towards whome he that is to be created duke commeth marching, with a great number of lords, all apparelled in red, and his ensignes displayed before him; all in good and seemely order, except the new duke himselfe, who is apparlled like a poore shepheard, with a shephooke in his hand: whome the clowne vpon the stone seeing comming, crieth aloud in the Sclauonian tongue, *Who is that (saith he) that commeth marching so proudly?* whereunto the people aunswere, *That it is their prince: then demaundeth he, Is he a iust iudge? seeketh hee the good of his countrey? is he free borne? is he worthie of that honour? and withall religious?*
- E Hee is, saith the people, and so shall hereafter be: Then the peasant giuing the duke a little blow on the eare, goeth downe from the stone, and is for euer after free from all publique charges: so the duke mounting the stone, and brandishing his sword, promisseth vnto the people, To be a good and a iust man: and in that habit goeth to heare masse; which in solemne manner done, he putting off his shepherds apparrell, and attired like a prince, goeth vp to the stone againe, and there receiueth the homage and oath of fidelitie of his vassals and subiects. True it is, that in auntient *time the duke of Carinthia was the emperours greatest Huntsman: but since that the empire fell into the house of Austria, wherunto that dukedome belonged, both the name of the Great

*The forme of in-
uesting the duke
of Carinthia.*

* Anno. 1331.

Huntsman, and the old maner of inuesting the duke grew out of vse, and the duchies of Carinthia, Stiria, and Croatia, with the counties of Cilia, and Tirol, remaine annexed vnto the dukedome of Austria. F

*The manner of
crowning of
the kings of Ar-
ragon.*

As for those things which are reported concerning the inuesting of the king of Arragon, they are long since growne out of vse; but this wee haue heard them to haue wont to bee done: The great magistrat of Arragon, whome they call the Chief Iustice, thus said vnto the king: *We which are vnto thee in vertue nothing inferiour, and in power greater than thy self, create thee our king; yet with this condition, that one amongst vs shall still haue more power and commaund than thy selfe.* Wherein he is deceiued that so writeth, the king to haue bene then chosen of the people; a thing that neuer was there done. For *Sanctus* the Great by force of armes draue the Moores out of the kingdome of Arragon, after they had seuen hundred yeares possessed the same: after which time his posteritie of both Sexes, held that kingdome by inheritance. And also *Peter Belluga*, who most exactly writ of the kingdome of Arragon, denieth the people to haue any right in chusing the king; but when the line of the king vterly faileth. That were also a new and more absurd thing, that the king of Arragon should haue lesse power than the states of Arragon, seeing that the same author *Belluga* saith, That the states might not assemble themselves without the kings expresse commaundement; neither being assembled, might depart without leaue giuen them from the king. That were also more absurd and ridiculous, that such speech should bee vsed by the magistrat, vnto him that was now crowned, sacred, and receiued a king by right of succession, who also placed and displaced the same great magistrat whensoever hee list. For the same author writeth, *Martin Didato* the greatest magistrat, to haue bene placed in that office by the queen of Arragon, in the absence of *Alphonfus* her husband, king of Arragon and Sicilia; and also by her againe discharged of the same office. And albeit that by sufference of the king, that great magistrat or iustice of Arragon, determineth of the proceffe and controuersies betwixt the king and his people: as it is also in England sometime by the high court of Parliament, and sometime by the magistrat, whome they call the *Lord Chiefe Iustice of England*, and by all the iudges of this * realme, and in all places: yet neuerthelesse so it is, that the great iustice of Arragon, and all the estates remaine in full subiection to the king, who is no wayes bound to follow their aduice, neither to consent to their requests, (as saith the same doctor) which is generall to all estates of a monarchie, as saith *Oldard*, speaking of the kings of Fraunce and Spaine, Who haue (saith he) absolute power. Yet true it is, that none of these doctours tell vs, what absolute power is. For if wee shall say, that hee onely hath absolute power, which is subiect vnto no law; there should then bee no soueraigne prince in the world, seeing that all princes of the earth are subiect vnto the lawes of God, of nature, and of nations. G

* viz. Fraunce.

*That a subiect
may be dispenced
withall from all
the lawes and
customes of his
Commonweale,
yet be neither
prince nor soue-
raigne.*

So to the contrarie it may be, that some one subiect may be dispenced withall, and absolued from all the lawes, ordinances, and customes of his Commonweale, and commaundement of the magistrat; and yet be neither prince, nor soueraigne. Example we haue of *Pompey* the great, who was dispenced withall from the lawes for fise yeres, by expresse decree of the people, published at the request of *Gabinus* the Tribune, at such time as extraordinarie power was giuen him to make warre against the pirats: neither is it any new thing or straunge thing to dispence with a subiect for his obedience to the lawes, seeing that the Senat sometimes so dispenced without the consent of the people: vntill the law *Cornelia* published at the request of a Tribune, whereby it was ordained, That no person should be exempted out of the power of the lawes, nor dispenced withall by the Senat, if he had not at the least the consent of two hundred Sena- K

A Senators. For by the law of the twelue tables, it was forbidden vpon paine of death to graunt any priueledge but by the great assemblies of the people; but that law was euill executed, being still infringed by the Senat. Yet he that is so exempted from one law, or moe, or all lawes, is for all that alwaies in the subiection and obeyfance of them which haue the soueraigntie: yea although he bee for euer absolued from all the lawes of his countrey. As *Augustus*, who although he was the prince of the people of Rome, that is to say, the chiefe in that Commonweale, yet faigning himselfe to be inferiour to the people in generall, he oftentimes propounded questions vnto the people, as if the people, and not *Augustus*, should make the lawes: and at the chusing of magistrats, would shake the citizens by the hands, that so hee might commend them that stood for the offices vnto the people. But it behoueth him that is a soueraigne not to be in any sort subiect to the commaund of another: which thing *Tiberius* wisely meaning in these words, reasoned in the Senat concerning the right of soueraigntie, saying that *The reason of his doings were no otherwise to be manifested, than in that it was to be giuen to none*: whose office it is to giue laws vnto his subiects, to abrogat laws vnprofitable, and in their stead to establish other: which hee cannot do that is himselfe subiect vnto lawes, or to others which haue commaund ouer him. And that is it for which the law saith, That the prince is acquitted from the power of the lawes: and this word the Law, in the Latine importeth the commaundement of him which hath the soueraigntie. Wee also see that vnto all edicts and decrees there is annexed this clause,

C *Notwithstanding all edicts and ordinances whereunto we haue derogated, and do derogate by these presents*: a clause which hath alwaies bene ioyned vnto the antient lawes, were the law published by the present prince, or by his predecessours. For it is certaine, that the lawes, ordinances, letters pattents, priueleges, and grants of princes, haue no force, but during their life, if they be not ratified by the expresse consent, or at least by suffe-
D rance of the prince following, who had knowledge thereof, and especially of the priueleges. As when *Bartolus* was sent ambassadour vnto *Charles* the fourth, the German emperour, for the confirmation of the priueleges of the cite of Perouze, hee obtained the same, yet with condition, That they should so long haue force, vntill they were reuoked by the succeeding emperours: vnto whom for all that, no preiudice could haue bene done, although that clause had not bene put to: which was the cause that *Michael Del. Hospital* chauncelour of Fraunce, constantly refused, yea even at the request of the queene, to seale the priueleges by *Charles* the ix. graunted vnto *S^r Maur des Fosse*, for that they carried with them a perpetuall enfranchisement and immunitie from taxes, which is contrarie to the nature of personall priueledges, and tended to the diminishing of the power of his successors, and could not be giuen vnto corporations or colleges, which liue for euer, but for the life of the prince that graunted them onely, although the word (perpetuall) were thereunto adioyned. Which for all that if they were graunted vnto corporations or colleges, by a popular or Aristocraticall state, must needs bee for euer, or at leastwise so long as that popular or Aristocraticall state should continue. And for this cause *Tiberius* the emperour, successor to *Augustus*, would not that the priueledges graunted by the dead emperours, should bee of any effect, if their successors had not confirmed them: when as before the priueleges granted by princes, if they were not limited vnto a time certaine, were accounted as giuen for euer. Wee also see in this * realme, that at the comming of new kings, colleges and corporations require to haue their priueleges, power, and iurisdiction confirmed; yea the verie parliaments and soueraigne courts, as well as other partiular officers.

E If then the soueraigne prince be exempted from the lawes of his predecessours, much lesse should he be bound vnto the lawes and ordinances he maketh himselfe: for a

A soueraigne prince is not bound to giue a reason of his doings.

That the lawes, letters pattents, priueleges, grants of princes haue no force, but during the life of the prince that graunted them.

* viz. Fraunce,

A soueraigne
prince is not sub-
iect vnto the
lawes and ordi-
nances that he
himselfe maketh

man may well receiue a law from another man, but impossible it is in nature for to giue a law vnto himselfe, no more than it is to commaund a mans selfe in a matter depending of his owne will: For as the law saith, *Nulla obligatio consistere potest, quæ a voluntate promittentis statum capit*, There can be no obligation, which taketh state from the meere will of him that promisseth the same: which is a necessarie reason to proue euidently that a king or soueraigne prince cannot be subiect to his owne lawes. And as the Pope can neuer bind his owne hands (as the Canonists say;) so neither can a soueraigne prince bind his owne hands, albeit that he would. Wee see also in the end of all edicts and lawes, these words, *Quia sic nobis placuit*, Because it hath so pleased vs: to giue vs to vnderstand, that the lawes of a soueraigne prince, although they be grouned vpon good and liuely reasons, depend neuerthelesse vpon nothing but his meere and franke good will. But as for the lawes of God and nature, all princes and people of the world are vnto them subiect: neither is it in their power to impugne them, if will not be guiltie of high treason to the diuine maiestie, making warre against God; vnder the greatnesse of whome all monarches of the world ought to beare the yoke, and to bow their heads in all feare and reuerence. Wherefore in that wee said the soueraigne power in a Commonweale to be free from all lawes, concerneth nothing the lawes of God and nature. For amongst the Popes, * hee that of all others best knew the lawes of maiestie or soueraigntie, and had almost brought vnder him the power of all the Christian emperours and princes, said him to be indeed a soueraigne that was able to derogat from the ordinary right (which is as I vnderstand it, from the laws of his country) but not from the lawes of God or nature.

All princes and
people are sub-
iect vnto the
lawes of God
and nature.

* Innocentius
Quartus.

Whether a
prince be sub-
iect vnto the
lawes of his coun-
trei that he hath
sworne to keepe,
or not.

But further question may be, Whether a prince bee a subiect to the lawes of his countrey, that he hath sworne to keepe, or not? wherein wee must distinguish. If the prince sweare vnto himselfe, That he will keepe his law: hee is no more bound to his law, than by the oath made vnto himselfe: For the subiects themselues are not any way bound by oath, which they make in their mutuall conuentions, if the couenants be such as from which they may by law shrinke, although they be both honest and reasonable. But if a soueraigne prince promise by oath to keep the lawes which he or his predecessours haue made, he is bound to keepe them, if the prince vnto whome hee hath so giuen his word haue therein any intrest; yea although he haue not sworne at all: But if the prince to whom the promise was made haue therein no intrest, neither the promise nor the oath can bind him that made the promise. The like we say, if promise be made by a soueraigne prince vnto his subiects, or before hee bee chosen; for in that case there is no difference, as many thinke: not for that the prince is bound to his laws, or by his predecessours; but to the iust conuentions and promises that hee hath made, be it by oath, or without any oath at all; as should a priuat man bee: and for the same causes that a priuat man may be releued from his vniust and vnreasonable promise, as for that it was too grievous, or for that he was by deceit or fraud circumvented; or induced therinto by error, or force, or iust feare; or by some great hurt: euen for the same causes the prince may be restored in that which toucheth the diminishing of his maiesty, if he be a soueraigne prince. And so our maxime resteth, That the prince is not subiect to his lawes, nor to the lawes of his predecessours: but well to his owne iust and reasonable conuentions, and in the obseruation whereof the subiects in generall or particular haue intrest. Wherein we see many to be deceiued, which make a confusi- on of lawes, and of a princes contracts, which they call also lawes: as well as he which calleth a princes contracts pactionarie lawes; as they tearme them in the state of Arragon, when the king maketh any law at the request of the people, and receiueth there- fore any money or subsidie; then the Arragonians say that the king is vnto that law bound,

A bound, but not so vnto other lawes: and yet neuerthelesse they confesse that the prince may derogat from the same, the cause of the law ceasing: which to bee true, as it may by reason and authoritie be confirmed, so was there no need of money, or of oath, to bind the soueraigne prince, if it concerned his subiects (to whome he had promised) to haue the law kept. For the word of a prince ought to bee as an Oracle; which looseth his dignitie, if his subiects haue so euill an opinion of him, as not to belecue him except he sweare; or else to be so couetous, as not to regard his promise except therefore he receiue money. And yet neuerthelesse the maxime of right still standeth in force, That the soueraigne prince may derogat vnto the lawes that hee hath promised and sworne to keepe, if the equitie thereof ceased, and that of himself without consent of his subiects: yet true it is, that a generall obscure or doubtfull derogation, in this case sufficeth not, but that there must bee a derogation in words speciall. But if there bee no probable cause of abrogating the law he hath promised to keepe, he shall do against the dutie of a good prince, if he shall go about to abrogat such a law: and yet for al that is he not bound vnto the couenants and oathes of his predecessours, further than standeth with his profit, except he be their heire. And for this cause the states of Arragon complained to king *Alphonssus*, for that he for gaine had altered and chaunged the money of Arragon, to the great preiudice of the subiects, and marchants straungers, contrarie to the promise made by *James* the first, king of Arragon, in the yeare 1265, in the moneth of August, and confirmed by king *Peter*, in the yeare 1336, who swore vnto the estates neuer to chaunge the money; in recompence wherof the people had promised euery one of them euery seuen yeares to pay vnto him a maruadie, if they were in goods worth fiteene maruadies. Now the kingdome of Arragon descendeth by inheritance vnto the heires, both males and females; but the effect of the contract betwixt the prince and the people ceasing, as the subsidie for which the kings of Arragon had made that order which I haue said, the king was no more bound to keepe his promise: then were the people to pay the subsidie vpon them imposed.

The word of a prince ought to be as an Oracle.

The reason of the law ceasing, the law is selfe ought also to cease.

D We must not then confound the lawes and the contracts of soueraigne princes, for that the law dependeth of the will and pleasure of him that hath the soueraigntie, who may bind all his subiects, but cannot bind himselfe: but the contract betwixt the prince and his subiects is mutual, which reciprocally bindeth both parties, so that the one partie may not start therefrom, to the preiudice, or without the consent of the other. In which case the prince hath nothing about the subiect, but that the equitie of the law which he hath sworne to keepe, ceasing, he is no more bound to the keeping thereof, by his oath or promise, as we haue before said: which the subiects cannot do among themselues, if they bee not by the prince releued. The soueraigne princes also well aduised, will neuer take oath to keepe the lawes of their predecessours; for otherwise they are not soueraignes. But then might some man say, Why doth the German emperour, who hath a preheminence about all other Christian kings, before he be crowned sweate betwixt the hands of the archbishop of Cullen, to keepe the lawes of the empire, the golden Bul, to establish iustice, to reuenge the pope, to keepe the catholike faith, to defend the widdowes, the fatherlesse, and poore? Which forme of oath, wherewith the emperour *Charles* the first bound himselfe when he was crowned, cardinall *Caietan* is said to haue sent vnto the pope, whose legat he then was in Germanie. Whereunto I aunswere, that the emperour is subiect vnto the states of the empire; neither taketh vpon him the soueraigntie ouer the princes electours, nor ouer the estates; as we shall in due place declare. And if a man say, That the kings of the Epirots in auncient time swore, that they should raigne well and orderly according to the lawes and customes of the countrey, and the subiects also on their part swore to defend and maintaine their

Soueraigne princes not bound vnto their laws, may yet by their contracts bind themselves vnto their subiects.

Whether Soueraigne princes well aduised, ought to bind themselves by oath to keepe the lawes of their predecessours.

king.

The oath of Philip the first, son to Henry the first, king of Fraunce, at the time of his Coronation.

Chap. 9.

The auncient Hebrew kings not sworne when they were anointed by the Prophets.

king, according to the lawes and customes of their countrey : I say yet notwithstanding all these oathes, that the soueraigne prince might derogar from the lawes, or frustrat and disanull the same, the reason and equitie of them ceasing . The oath also of our kings, which is the fairest and shortest that can be, containeth nothing in it concerning the keeping of the lawes and customes of the countrey or predeceffours : The words I will set downe, as they be taken word for word out of the librarie of Rheims, out of an auncient booke, which thus beginneth *Juliani ad Erigium Regem Anno 1058 Henrico Regnante 32 iij. Calend. Iunij. Ego Philippus Deo propiciante mox futurus Rex Francorum, in die ordinationis mea promitto coram Deo & sanctis eius, quod unicuique de nobis commissis canonicum priuilegium, & debitam legem atque iustitiam conseruabo, & defensionem adiuuante Domino quantum potero exhibebo: sicut Rex in suo regno unicuique Episcopo & Ecclesie sibi commissae per rectum exhibere debet: populo quoque nobis credito, ne dispensationem legum in suo iure consistentem, nostra auctoritate concessurum. vii.* The booke of *Julian Erigius*, Anno 1058, in the xxxij. yeare of the raigne of *Henrie* the first, the fourth of the calends of Iune. I *Philip*, by the grace of God forthwith to become king of Fraunce, on the day of my inuesting, doe promise before God and his Saints, that I will keepe canonicall priueledge, with due administration of law and iustice, to euerie one committed to our charge: and by the help of God to the vttermost of my power defend them, in such manner as a king in his kingdome ought of right to giue vnto euerie bishop & church committed vnto him: & by our authoritie to grant vnto the people committed vnto vs, the execution of the lawes remaining in force. I know that which is found in the librarie of the Beauuais is like vnto this, and the oath of the same *Philip* the first: but I haue seene another in a little auncient booke in the Abbey of *S. Allier* in *Auergne*, in these words; *Ie iure au nom de Dieu tout puissant, & promets de gouverner bien et deuement les subiects commis en ma garde, & faire de tout mon pouuoir iudgement, iustice, et misericorde:* I sweare by the name of the Almighty God, and promise well and duly to gouerne my subiects committed to my charge: and with all my power to doe them iudgement, iustice, and mercie. Which seemeth to haue bene taken from the prophet *Hieremie*, where he saith, *I am the great eternall God, which do iudgement, iustice, and mercie; and in which things I take singular pleasure.* Which formes of oathes shew plainly vnto the eye, that the oathes contained in the booke lately printed and published by the title of *Sacre Du Roy*, are much changed and altered from the auncient forme. But both in the one and the other oath, a man may see that there is not any bond for the soueraigne prince to keepe the lawes, more than so farre as right and iustice requireth. Neither is it to be found that the auncient kings of the Hebrewes tooke any oath: no not they which were anointed by *Samuel*, *Helias* and others. But some take a more precise oath, such as is the oath of *Henry* the 3 king of Fraunce, and of *Polonia*. *Ego Henricus Rex Polonia, &c. Iuro Deo omnipotenti, quod omnia iura, libertates, priuilegia publica & priuata iuri communi non contraria, Ecclesijs, principibus, Baronibus, nobilibus, ciuibus, incolis, per meos predecessores Reges, & quoscumque principes Dominos, Regni Polonia iuste concessa, & qua in interregno decreta sunt seruabo, iusque omnibus incolis more maiorum reddam. Ac si quidem (quod absit) Sacramentum meum violauero nullam nobis incola Regni obedientiam prestare tenebuntur, &c. sic Deus adiuuet. vii.* I *Henrie* king of *Polonia*, &c. Sweare vnto almighty God, that I will keepe all the lawes, liberties, publick and priuat priueleges; not contrarie to the common law, iustly graunted vnto churches, princes, barons, noble men, citifens, or inhabitants, by the kings my predeceffours, or whatsoeuer other princes, lords of the kingdome of *Polonia*: as also all such things as were decreed in the time of the vacancie of the kingdome: and that I will administer iustice vnto all the inhabitants

of

A of this kingdome, after the manner of our auncestours: And if I shall violat this mine oath (which God forbid) then the inhabitants of this kingdom shall be bound to yeeld vnto vs no obedience, &c. And so God helpe vs. But this forme of oath sauoureth not of royall maiestie, but the condition of a meaner prince, such an one as (amongst others) is chiefe in a Commonweale.

But touching the lawes which concerne the state of the realme, and the establishing thereof; forasmuch as they are annexed & vnited to the crowne, the prince cannot derogat from them, such as is the law Salique: & albeit that he so do, the successor may alwaies disanull that which hath bene done vnto the preiudice of the laws royall; vpon which the soueraigne maiestie is stayed & grounded. Yet might one say, That *Henry*

Lawes royall which concerne the State of the realme not to bee infringed by a soueraigne prince

B the 5, king of England & France, marrying *Katherine* of France, sister to *Charles* the 7, took an oath to keep the high court of parliament in the liberties & soueraigntie thereof; and to cause iustice to be administred in the realme, according vnto the customes and lawes thereof. See the words of the decree agreed vpon for to make him successor vnto the crowne of Fraunce, the xxj of May, in the yeare 1420. I say they caused him to take such an oath, for that he was a straunger come to a new kingdome; from which the lawfull inheritour was excluded by a decree of the Parliament of Paris, giuen for default and contumacie; for the murther committed vpon the person of *John* duke of Burgoigne, which was by sound of trumpet pronounced at the marble table in the presence of the princes. But as for generall and particular lawes and customs,

C which concerne not the establishing of the state of the realme, but the right of men in priuat, they haue not vsed to haue bene with vs otherwise chaunged, but after generall assemblee of the three estates of Fraunce well and duly made; or of euery bailiwiki in particular: not for that it is necessarie for the king to rest on their aduice, or that hee may not do the contrarie to that they demaund, if naturall reason and iustice so require. And in that the greatnesse and maiestie of a true soueraigne prince; is to bee knowne; when the estates of ail the people assembled together, in all humilitie present their requests and supplications to their prince, without hauing any power in any thing to commaund or determine, or to giue voice, but that that which it please the king to like or dislike of, to commaund or forbid, is holden for law, for an edict and ordinance.

Parliaments impaire not, but most of all shew the maiestie and greatnesse of a soueraigne prince

D Wherein they which haue written of the dutie of magistrats, & other such like books, haue deceiued themselues, in maintaining that the power of the people is greater than the prince; a thing which oft times causeth the true subiects to reuolt from the obedience which they owe vnto their soueraigne prince, & ministreth matter of great troubles in Commonweals. Of which their opinion, there is neither reason nor ground, except the king be captiue, furious, or in his infancie, and so needeth to haue a protector or lieutenant appointed him by the suffrages of the people. For otherwise if the king should be subiect vnto the assemblies and decrees of the people, hee should neither bee king nor soueraigne; and the Commonwealth neither realme nor monarchie, but a meere Aristocratie of many lords in power equall, where the greater part commaundeth the lesse in generall, and euery one in particular: and wherein the edicts and lawes are not to be published in the name of him that ruleth, but in the name and authoritie of the states, as in an Aristocraticall Seignorie, where hee that is chiefe hath no power, but oweth obeysance vnto the commaundements of the seignorie: vnto whome yet they all and euerie one of them faine themselues to owe their faith and obedience: which are al things so absurd, as hard it is to say which is furthest from reason: So when *Charles* the eight, the French king, being then but about xiiij. yeres old, held a parliament at *Tours*, although the power of the parliament was neuer before nor after so great as in those times, yet *Relly*, then speaker for the people, turning

The parliament of France.

himselfe

himselfe vnto the king, thus beginneth his oration, which is yet in print extant. *Most high, most mightie, and most Christian king, our naturall and onely lord, we your humble and obedient subiects; &c. Which are come hither by your commaund, in all humilitie reuerence and subiection, present our selues before you, &c. And haue giuen mee in charge from all this noble assemblie, to declare vnto you the good will and hartie desire they haue with a most firme resolution and purpose to serue, obey, and aid you in all your affaires, commaundements and pleasures.* In briebe, all that his oration and speech is nothing els but a declaration of all their good wils towards the king, and of their humble obedience and loialtie. The like speech almost we see was also vsed in the parliament at Orleans, vnto king *Charles* the ninth, when he was yet but scarce eleuen yeares old: Neither are the parliaments of Spaine otherwise holden, but that euē a greater obedience & a greater loialtie of all the people in generall, is giuen vnto the king, as is to bee seene in the acts of the parliament holden at Toledo by king *Philip*, in the yeare 1552, when he was yet scarce full xxv yeares old. The answers also of the king of Spaine vnto the requests and humble supplications of his people, are giuen in these words; *We will; or else, We decree and ordaine;* and such other like answers, importing the refusall or consent of the prince: yea the subsidie that the subiects pay vnto the king of Spaine, they call seruice. Wherby it appeareth them to be deceiued, which say that the kings of Arragon cannot derogat from the priueledges of the states, by reason of the priueleges giuen them by king *James*, in the yeare 1260, and confirmed in the yeare 1320. For as the priueleges was of no force after the death of the king, without the confirmation of his successours: so also the same confirmation of the rest of the kings following was necessarie, for that by the law no man can raigte ouer his equals. And albeit that in the parliaments of England, which haue commonly bene holden euerie third yeare, there the states seeme to haue a verie great libertie (as the Northerne people almost all breath thereafter) yet so it is, that in effect they proceed not, but by way of supplications and requests vnto the king. As in the parliament of England, holden in October, 1566, when the estates by a common consent had resolued (as they gaue the queene to vnderstand) not to entreat of any thing, vntill she had first appointed who should succeed her in the crowne: She gaue them no other answer; But that they were not to make her graue before she were dead. All whose resolutions were to no purpose without her good liking: neither did she in that any thing that they required. Now also the estates of England are neuer otherwise assembled (no more than they are in this realme of Fraunce, or Spaine) than by parliament writs, and expresse commandements proceeding from the king. Which sheweth verie well that the estates haue no power of themselves to determine, commaund, or decree any thing; seeing that they cannot so much as assemble themselves; neither beeing assembled, depart, without expresse commaundement from the king. Yet this may seeme one speciall thing, that the laws made by the king of England, at the request of the states, cannot bee againe repealed, but by calling a parliament of the estates: Which is much vsed and ordinarily done, as I haue vnderstood by *M. Dale*, the English ambassadour, an honourable gentleman and a man of good vnderstanding, who yet assured me, that the king receiued or reiected the law as seemed best vnto himself: and stucke not to dispose thereof at his pleasure, and contrarie to the will of the estates: as wee see *Henry* the eight to haue alwaies vsed his soueraigne power, and with his onely word to haue disanulled the decrees of parliament: albeit that the kings of England are not otherwise crowned, but that they must sweare inuiolatly to keepe the lawes and customes of the land: which how that oath is to be vnderstood, I referre you to that which wee haue before reported. But here might some obiekt and say, That the estates of England suffer not any extraordinary

The parliament
of Spaine.

The parliaments
of England.

D. Dale.

nary

Arie charges and subsidies to be laid vpon them, if it be not first agreed vpon and consented vnto in the high court of parliament: for so it is provided by an auncient law of *Edward* the first, king of England, wherewith the people as with a buckler hath bene oftentimes seene to defend it selfe against the prince: Whereunto mine aunswere is, That other kings haue in this point no more power than the kings of England: for that it is not in the power of any prince in the world, at his pleasure to rayse taxes vpon the people, no more than to take another mans goods from him; as *Philip Commynes* wisely shewed in the parliament holden at Tours, as we read in his *Commentaries*: and yet neuerthelesse if the necessitie of the Commonweale be such as cannot stay for the calling of a parliament, in that case the prince ought not to expect the assemblie of the states, neither the consent of the people; of whose good foresight and wisdom, next vnto God, the health & welfare of the whole state dependeth: but concerning all sorts of taxes and tributes, more shall be said in place conuenient. True it is, that the kings of England, since the time of *Henrie* the first (as we read in *Polidore*) haue as it were alwaies accustomed euery third yeare to demaund of the people an extraordinarie subsidy, which is for the most part graunted. As in the parliament holden in Aprill, in the yeare 1570, the queene of England, by the consent of the estates, drew from them five hundred thousand crownes (as the like whereof is sometime also vsed to bee done in Spaine) from which manner of tribute she had now many yeares before abstained. Now here might some obiekt also, That the estates of England haue power to condemn, as king *Henrie* the sixt was condemned by the estates, to be kept prisoner in the Towre of London. I say that that was done by the ordinarie judges of England, the lords spirituall and temporall of the vpper house, at the request of them of the neather house; who presented also a bill of request to the vpper house, in the yeare 1571, tending to the end, that the earles of Northumberland, and Westmerland, & other conspiratours, might be declared to haue incurred the paines contained in the lawes of the land, made against them that were guiltie of treason. Which sheweth well that the estates in bodie together haue neither power nor iurisdiction, but that the power is with the judges of the vpper house, as should be, if the parliament of Paris assisted by the prince and peers, should be from the estates in bodie together seperated, to iudge of themselves of great matters.

*Polydor. in
hist. Angloru.*

DBut yet there remaineth another difficultie to resolue vpon, concerning the afore-said estates of England, who seemed to haue power to commaund, resolue, and decide of the affaires of state. For queene *Marie* hauing assembled them for the passing of the articles of agreement concerning the marriage with king *Philip*: after many disputes and difficulties proposed, in fine, the conclusion of the treatie was made the second day of Aprill in the yeare 1554, in forme of a decree conceiued in the name of the estates, in these words: The articles aforesaid, and that which dependeth thereof, seene and considered of, by the estates assembled in parliament, holden at the palace of Westminster, it hath bene said, That concerning the disposition and collation of all benefices and offices, they are reserved vnto the queene; as also of all the fruits, profits, rents, reuenews of her countries, lands, and seignories, the queene, as sole and alone shall enjoy the royaltie and soueraignie of her said realmes, countries, lands, and subiects, absolute, after the consummation of the marriage; so that the said prince shall not pretend by the way of the courtesie of England, any claime to the crowne or soueraignie of the realme; nor to any other rights, preheminences, or authorities: That all mandats and letters pattents shal passe vnder the name of the said prince and queene iointly: which letters signed with the hand of the queene alone, and sealed with the great seale, shall be available: but being not signed by the said queene, shall be void and

to none effect. I haue willingly set downe the ratification at large, to show that the soueraignie wholly without diuision belonged vnto the kings of England, and that the estates had but the view thereof: For the ratification of the estates, no more than of a court, a parliament, a corporation, or colledge, sufficeth not to show the power to commaund, but rather their consent to strengthen the acts, which gtherwise might haue bene called into some doubt, after the death of the queene: or in her life time by the magistrats and officers of the realme, opposing themselues against her. Wherefore we conclude the maiestie of a prince to be in nothing altered or diminished by the calling together or presence of the states: but to the contrarie his maiestie thereby to bee much the greater, & the more honorable, seeing all his people to acknowledge him for their soueraigne: albeit that in such assemblies, princes not willing to reiect their subiects, graunt, and passe many things, whereunto they would not otherwise yeeld their consent, if they were not ouercome by the requests, prayers, and iust grieuances of the people, afflicted and vexed oftentimes without the knowledge of the prince, who yeeldeth many things vnto them all, which he would deny vnto them in particular; or at leastwise not so easily graunt them: either for that the voyces of euerie one in particular, are lesse heard, than of al together: or for that the prince at other times commonly vseth to see but by other mens eyes, and to heare but by other mens eares and reports: whereas in parliament hee seeth and heareth his people himselve, and so enforced with shame, the feare of religion, or his owne good disposition, admitteth their iust requests.

The principall
point of soue-
raignie;
Laws in Fraunce
altered by the
prince, without
the assembling or
consent of the
states.

So wee see the principall point of soueraigne maiestie, and absolute power, to consist principally in giuing laws vnto the subiects in generall, without their consent. And not to speake of straunge countries, we haue oftentimes seene in this realme of Fraunce certaine generall customs abolished by the edicts of our kings, without the assembling or consent of the estates: when the iniustice of the same is plainly to be seene; as the custome of this realme, commonly vsed in euery place, concerning the succession of mothers vnto the goods of their children, hath bene chaunged without assembling of the estates, either in generall or particular. Which chaunging of customes is no new thing; for since the time of *Philip* the faire, the custome generall in this realme, which suffered not him that was ouerthrowne in sure, to be condemned in charges also, was disanulled by edict, without assembling the estates. And the generall custome which forbad to receiue the testimonie of women in ciuill causes; was abolished by the edict of *Charles* the sixt, without calling together of the estates. For it behoueth that the soueraigne prince should haue the lawes in his power, to chaunge and amend them, according as the case shall require; as saith the lawyer *Sextus Cecilius*: euen as the master pilot ought to haue the helme alwaies in his hand, at discretion to turne it as the weather or occision requireth: for otherwise the ship might oftentimes perish before hee could take aduice of them whome he did carrie. Which is a thing necessarie, not onely vnto a soueraigne prince, but sometimes vnto a magistrat also, the necessitie of the Commonweale so requiring, as we haue said of *Pompee*, and of the *Decemuires*. And for that cause *Augustus* after he had ouerthrowne *Marcus Antonius* at *Actium*, was by the Senat absolved from the power of the lawes, albeit that he as then was but chiefe of the Commonweale, and no soueraigne prince, as we shall in due place declare. And after that *Vespasian* the emperour was also exempted from the power of the lawes, not by the Senat onely, but onely by the expresse law of the people as many thinke, and as yet it is to be found engrauen in marble in Rome: which the lawyer calleth the law Royall, howbeit that it hath no great probabilitie, that the people which long time before had lost al their power, should giue it to him that was stronger than themselues.

Now

A Now if it be profitable that the soueraigne prince, for the good gouernment of an estate, should haue the power of the laws vnder him; then it is more expedient for the gouernour in an Aristocraticall estate; and necessarie for the people in their popular estate: for the monarch is diuided from the people; and in the Aristocraticall state, the lords or gouernours are diuided from the commonaltie and vulgar people; in such sort as that in both the one & other Commonweal, there are two parties, that is to wit, he or they that hold the soueraigntie on the one part, and the people on the other; which causeth the difficulties which are betwixt them for the rights of soueraigntie, which cease in the popular estate. For if the prince or lords which hold the estate be bound to obserue the laws, as many think they are, and that they cannot make any law without the consent of the people, or of the Senat; it cannot also bee againe by law repealed, without the consent of the one or of the other: which can rake no place in a popular estate, seeing that the people make but one bodie, and cannot bind it selfe vnto it selfe. But, Why then (will some say) did the people of Rome sweare to keepe the lawes? That was first begun by *Saturnius* the Tribune of the people, that so hee might the more straitly bind the Senators to the lawes by him made: which *Dio Niceus* writeth to haue bene after ward done in all lawes. But it is one thing to bind all together, and to bind euerie one in particular: for so al the citifens particularly swore to the obseruation of the lawes, but not all together; for that euerie one of them in particular was bound vnto the power of them all in generall. But an oath could not be giuen by them all: for why, the people in generall is a certaine vniuersall bodie, in power and nature diuided from euerie man in particular. Then againe to say truly, an oath cannot be made but by the lesser to the greater, but in a popular estate nothing can bee greater than the whole body of the people themselues. But in a monarchie it is otherwise, where euerie one in particular, and all the people in generall, and (as it were) in one bodie, must sweare to the obseruation of the lawes, and their faithfull alleageance to one soueraigne monarch; who next vnto God (of whome he holdeth his scepter & power) is bound to no man. For an oath carrieth alwaies with it reuerence vnto whom, or in whose name it is made, as still giuen vnto a superiour: and therefore the vassall giueth his oath vnto his lord, but receiueth none from him againe, although that they be mutually bound the one of them vnto the other.

An oath cannot be made but by the lesser to the greater.

D But if it be so, that a soueraigne prince next vnder God, is not by oath bound vnto any, why did *Traian* the emperor standing vpright, before the Consul sitting, solemnly sweare to the keeping of the lawes? That seemeth to haue beene so done by him for two causes, the one, for that hauing gotten the Consulship, together with his principallitie, he swore as the Consuls did at their entrance into their Consulship; as also al the new magistrats did the first of Ianuarie, after they had sacrificed in the Capitoll: The other reason was, for that the Roman emperours at the first had not any soueraigne power, but were onely called princes, that is to say, the chiefe men in the Commonweale; which forme of a Commonweale, is called a principallitie, and not a monarchy: but a principallitie is called a certaine forme of an Aristocratie, wherein one is in honor dignitie and place, aboue the rest: as amongst the Venetians: For the Roman emperor or prince, at the first was in honour aboue the rest, but not in power: howbeit that in truth the greatest part of the Roman emperours were indeed tyrants. Which is well to be vnderstood, for that which happened in the raigne of *Caligula* the cruell tyrant, who hauing bid certaine forren kings and allies of the people of Rome to supper, and question there at the table arising about their honour and greatnesse; hee to stay their strife, rapt out this verse, taken out of *Homers Iliades*;

A principallitie no Monarchie.

The Roman emperours for most part tyrants.

Οὐκ ἀγατὸν ἢ πολυκυβερνῆν, ἢ ἑκκυβερνῆσαι, ἢ βασιλεῦς.

Good it is not to be ruled by many,
One king, one lord, if there be any.

Sueton, in Ca-
p. 1a.

Why Traian &
some other good
princes haue
sworne to obserue
and keepe the
lawes.

And it missed but a little (as saith *Suetonius*) but that hee had euen then chaunged his principallitie into a monarchie, and set a crowne vpon his owne head. For in a principallitie the prince or chiefe magistrat, who is aboue the rest, is yet no soueraigne; as we shall hereafter show in the Commonweals of the Venerians, and of the Germans. And albeit that many of the Roman emperors, had taken vpon them the soueraigntie, and by diuers sleights wrested from the people their libertie; yet neuerthelesse it was no maruell if *Traian*, one of the best princes that euer liued in the world, swore (as is afore-said) to keepe the laws, although he in the name of a soueraigne prince were exempted; to the end by his own example to moue his subiects to the more carefull obseruing of them: but neuer one of the emperours before him so swore to the obseruing of the lawes. And therefore *Plinie* the younger, who in a pannegiricall oration, set forth the praises of that most worthy prince, speaking of the oath of *Traian*, crieth out in this sort, *A great noueltie* (saith he) *and neuer before heard of, hee sweareth by whome wee sweare*. And after that in the declination of the empire, *Theodoric* desirous to gaine the fauour of the Senat and people of Rome, followed the example of *Traian*, as wee read in *Cassiodore*, *Ecce Traiani nostri clarum seculis reparamus exemplum; iurat vobis per quem iuratis*, Behold (saith he) we renew the example of our *Traian*, famous through all ages; he sweareth vnto you, by whome you your selues sweare. And like it is, that other princes haue vsed the same custome, of taking the like oath at their coronation, although they haue the soueraigntie by the right of succession. True it is, that the kings of the Northerne people take such oathes as derogat from their soueraigntie: As for example, the nobilitie of Denmarke withstood the coronation of *Frederick*, in the moneth of August, in the year 1559, vntill that he had solemnly sworne that he should not put any noble man to death, or confiscat his goods, vntill he were iudged by the Senat; and that all noble men should haue iurisdiction & power of life & death ouer their subiects, without appeale; and that the king should haue no part in their fines or confiscation of their goods; and also that the king should not giue any office without consent of the counsell: which are all arguments, that the king of Denmarke is no absolute soueraigne. But this oath was first drawne out of the mouth of *Frederick* this mans grandfather, at such time as he made warre against *Christierne* king of Denmark (who was drinen out of his kingdome, and after long banishment returning, at length died in prison, wherein he had liued twentie fve yeares) and was afterward confirmed by *Christierne* father of *Frederick*, who tooke the same oath. And to the end hee should not violat, or breake the same, the nobility to that purpose treated a league with the towne of Lubec, and *Sigismundus Augustus* king of Polonia, who also himselfe seemes not to haue much more power ouer his owne subiects than hath the king of Denmarke ouer his.

Two great incon-
ueniences ensue
ing vnto soue-
raigne princes
by swearing to
obserue the laws.

But of two things the one must be: that is to wit, the prince that sweareth to keepe the lawes of his countrey, must either not haue the soueraigntie; or els become a periured man, if he shall abrogat but one law, contrarie vnto his oath: whereas it is not only profitable that a soueraigne prince should sometimes abrogat some such lawes, but also necessarie for him to alter or correct them, as the infinit varietie of places, times, and persons shall require. Or if wee shall say the prince to be still a soueraigne, and yet neuerthelesse with such condition, as that he can make no law without the aduice of his counsell or people; he must also be dispensed with by his subiects, for the oath that hee

A he hath made for the inuiolat obseruation of the laws; & the subiects againe which are obliged & bound vnto the lawes, be it in particular, or in generall, haue also need to be dispensed withall by their prince, for feare they should bee periured: so shall it come to passe that the maiestie of the Commonweale, enclining now to this side, now to that side, sometimes the prince, sometimes the people bearing sway, shall haue no certaintie to rest vpon: which are notable absurdities, & altogether incompatible with the maiestie of absolute foueraigntie, & contrarie both to law & reason. And yet we see many, euen them that thinke themselues to see more in the matter than others, which maintaine it to be most necessarie, that princes should be bound by oath to keep the laws & customs of their country. In which doing they weaken & ouerthrow all the rights of

B foueraign maiesty, which ought to be most sacred & holy, & confound the foueraigntie of one foueraigne monarch, with an Aristocratic, or Democratic: whereby it cometh to passe, that many princes, seeing that power to be taken from them, which properly belongeth vnto them, & that men would make them subiect to the laws of their country, dispense in the end, not only with those their country laws, but euen with the laws of God & nature, making account of them all alike, as if they were bound to neither, but of both discharged. But to make all this matter more plaine to be vnderstood, we will by examples make manifest that before said. Wee read it thrice repeated in *Dan.* that by the customs of the Medes & Persians, the laws by their kings made, were immutable & irrevocable; & albeit that the king of the Medes would haue exempted

C the Prophet *Daniel*, from the punishment of death, which by the edict which hee had broken was to haue bene inflicted vpon him; yet was he by the princes forbidden so to doe, who shewed him, that the edict by him made could not by the law of their countrey be reuoked: wherunto when the king euen against his will (as should seeme) had assented, *Daniel* was accordingly condemned vnto the beasts, and so cast vnto the hungrie lions. If then the greatest monarch vpon earth could not derogat from the lawes by himselfe made; the grounds of maiestie and foueraigntie by vs before laid, must needs faile: and that not onely in a monarchie, but in a popular state also: as was that of Athens, whereof *Thucydides* speaking, sheweth that the warre of *Peloponessus* began for a law made by the Athenians, whereby the Megariens were forbidden to come into the port of Athens; wherein the Megariens complained vnto their allies and friends themselues to be wronged and the lawes of nations violated: whereupon the Lacedemonians sent their ambassadours to Athens, to request the Athenians, that that law might be againe repealed. VVherunto *Pericles* then in greatest grace & authoritie with the people, answered the ambassadours, That by the expresse lawes of their auncestours, the lawes once made and confirmed by the people, and so hanged vp vpon the common pillar, might neuer be taken away. Which if it were so, the people was bound not to their owne lawes onely, but euen to the lawes of their predecessours also. And that more is, *Theodosius* the emperour would not that the lawes by himselfe made, should be of any force, except they were confirmed by the generall decrece of the whole Senat. In like maner also by the decrece of *Lewes* the eleuenth, the French king, concerning the institution of knights of the order, in the eight article, it is expressly said, That the king shall vndertake no warre, nor other thing whatsoever of great importance, concerning the high estate of the Common weale, without knowledge thereof giuen vnto the knights of the order, so to haue and vse their aduice and counsell. And for that cause, as I suppose, the edicts of our kings are of none effect, vntill they be read, published, verified, and registred in parliament, with the consent of the great Attorney generall; and the approbation of the court. And in England it is by

E auntient custome receiued, that lawes concerning the state of the Commonweale

Examples so
prooue that lawes
once made and e-
stablished, may
not by them that
haue the foue-
raignie be a-
gaine changed.

The lawes of the
Athenians to be
changed.

Polydore.

should take no place, except they were authoris'd by the Estates assembled in the high court of Parliament.

The former reasons answered.

Ahabucroft
Hester.

These reasons, although they seeme probable, yet are they not sufficient to proue the rule concerning Soueraignetie before by vs set downe, nor to be true: For, as for that which was objected concerning the law of the Medes, and authoritie of the king in abrogating of the lawes; it is manifest that it was false, and by the courtiers his enemies deuised against the life of *Daniel*: who grieuing to see a man for his wisdom and royall discent honourable, and yet a stranger, to be in greater grace and fauour with the king than themselves, and exalted in their countrey in degree next vnto the king, made that false allegation of the strength of their lawes against him, with whose accusation the king deceiued, or els to proue if *Daniels* God could saue him from death, caused him to be cast vnto the hungrie lyons. But hauing in him seene the wonderfull power and mercie of God towards his seruants, he gaue *Daniels* enemies to bee deuoured of the same lyons: wherein the end well shewed, the king to haue bene aboute the lawes of his countrey. In like sort *Darius Memnon* at the request of a young Iewish ladie reuoked the decree whereby he had appointed all the nation of the Iewes to be vnterly rooted out. As for that which *Pericles* answered vnto the ambassadours of the Lacedemonians, he therein respected not so much the truth, as the shew thereof, that so taking occasion of warre, which he sought after, he might frustrate the accusations of his aduersaries, and danger of the law, as *Timeus* and *Theopompus* haue truly written, and *Plutarch* hath not denied. And that was it for which hee said to the Lacedemonian ambassadours, That the edicts once hanged vpon the pillars, might not be taken away: which his sophistication the ambassadours returned vnto him againe, with a Lacedemonian quip, saying, That they desired not to haue the edict taken away from the pillar, but onely the table turned. For if the lawes of the Athenians had bene immurable, why had they such varietie, and infinit multitude of lawes, which they were wont to establish at the continuall motion of their magistrats, & to abrogat the old, that so the new might take place? But that *Pericles* therein abused the Lacedemonian ambassadors, it is manifest by the oration of *Demosthenes* against *Leptines*, who had preferred a request vnto the people, to the end that by a perpetuall and irreuocable edict it might from that time forward bee forbidden vpon paine of death, to present any request vnto the people for the obtaining of any priueledge or exemption, and the like paine to bee inflicted vpon him that should so much as speake for repealing that edict. Wherein *Demosthenes* hardly withstood *Leptines*, & so wrought the matter, that his request was receiued, hauing manifestly showed the people by consenting to this law, to be dispoiled not onely of the prerogative that it had to graunt exemptions and priueledges to such as should well deserue of them, but also of the power to abrogat lawes by them made, if the necessitie of the Commonweale should so require. They had also a popular action, concerning the breaking of lawes, which was commenced against them that would haue the people to passe any edict contrarie to the lawes before receiued; as one may see in all the orations of *Demosthenes*: but yet that neuer letted, but that the new and profitable lawes were still preferred before the old vniust lawes. And in like case the generall edict, wherein it was decreed, That the offenders fine once adiudged and set downe by the people, might not in any wise bee forgiven or abated; was yet many times reuoked, and that once in fauour of *Pericles* himselfe, and another time in fauour of *Cleomides* and *Demosthenes*, who by diuers iudgements of the people, had bene euerie one of them condemned in a fine of * thirtie thousand crownes. They say also in this realme of Fraunce, the fine once being paid, be it right or be it wrong, is neuer againe to be restored: and yet we see oftentimes the contrarie, and the same to bee
again

* Plut in Peri.
Demetri.
Demost.

A againe recovered. It is then a formalitie which is and hath alwaies bene in euery Commonweale, that the law makers to giue vnto their lawes the greater weight and authoritie, ioyne thereunto these words of course, *Edicto perpetuo & irrenocabili sancimus. &c.* By a perpetuall and irrenocable decree we ordaine. And with vs in the beginning of euery law, *Vniuersis presentibus & futuris*: which words are added to the eternall memorie of posteritie, least the law should by any be infringed. And the more to shew the difference of the lawes, such as be made for perpetuitie, are with vs sealed with greene waxe, and strings of greene and purple silke: whereas vnto the temporary Edicts are put neither strings of silke, nor greene waxe, but yellow onely. And yet for all this, there is no law which is perpetuall, no more than were those of the Greekes and Romanes, who in making their lawes, commonly vsed to ioyne thereunto this clause, *Vt nec per Senatum, nec per populum, lex infirmari possit*: That the law might not either by the Senate or the people bee weakened: which wordes if they imported a perpetuitie, why did the people almost in the same moment that it had established a law, againe abrogate the same. Concerning which matter, *Cicero* writing vnto his friend *Atticus*: *Thou knowest* (sayth he) *the Tribune Claudius to haue decreed that his law should hardly, or not at all, by the Senate or the people be infringed. But it is sufficiently knowne that regard was neuer had vnto this clause: Vt nec per Senatum nec per populum lex infirmari possit: for otherwise* (sayth he) *one should neuer see law repealed, seeing that there is no law which carieth not this clause with it: from which men yet doe ordinarily derogate.* Thus much he. Which is yet more plainely to be vnderstood out of the Oration of *Fabius Ambustus* against the intercession of the Tribunes of the people; who maintained, that the people could not chuse both the Consuls of the nobilitie, for that by a law before made it was ordained, That one of the Consuls should be still chosen out of the people: *Fabius* alledged the law of the twelue Tables in these words, *Quod postremum iussit populus id ratum esto*, What the people shall last decree, let that stand for good.

The clause of perpetuitie why annexed vnto lawes, and yet no lawes perpetuall.

D So we see the Medes, the Persians, the Greekes, the Latines, to haue vsed the same forme and cautions, for the establishing of their edicts and lawes, that our kings doe: who vnto the lawes by them made, oftentimes ioyne this clause: *without that therefrom can by vs, or our successors be derogated*. Or els, *without regard hauing vnto any derogation, which from this present we haue declared to be of none effect*. And yet no man can so make a law vnto himselfe, but that he may depart therefrom, as we haue before said. Wherefore the repeales and derogations of the former edicts and lawes, are almost alwaie subiect vnto the latter edicts and derogations. And therefore *Solon* did wisely, who would not bind the Athenians to keep his lawes for euer, but contented himselfe to haue them kept for an hundred yeares: and yet neuerthelesse hee yet liuing, and present, suffered (though against his will) the greatest part of them to be chaunged.

* Plut. in Sol.

E But that publication or approbation of lawes in the assembly of the Estates or parliament, is with vs of great power and importance for the keeping of the lawes; not that the Soueraigne prince is bound to any such approbation, or cannot of himselfe make a law without the authoritie or consent of the States or the people: but yet it is a courteous part to do it by the good liking of the Senat, as saith *Theodosius*, which *Baldus* interpreted not to be a thing so much of necessitie, as of courtesie: as that is also a speech well bebecoming soueraigne maiestie, for a prince to professe himself bound vnto the lawes of himselfe that raigneth. And certainly there is nothing better, or more bebecoming a prince, than by his deeds and life to confirme those lawes which hee himselfe hath made: for that is of greatest force, for the honour and obedience of the

The soueraigne prince more of courtesie than of necessitie bound to obserue the lawes.

Liuius lib.3.

All princes
bound and sub-
iect unto the
lawes of God and
nature, and to
their owne iust
conventions.

subiects towards their prince : as contrariwise nothing is more dangerous for the contempt both of the prince and of the lawes, than without iust cause to breake or infringe that which thou hast commaunded : as an auncient Roman Senatour said, *Lenius est, & uanius, sua decreta tollere quam aliorum*. It is more lightnesse and vanitie to take away a mans owne decrees, than the decrees of other men. But it is one thing for a man so to doe willingly and of his owne accord, and another thing to bee bound by bond or oath so to do it.

But what if a prince by law forbid to kill or to steale, is hee not bound to obey his owne lawes? I say that this law is not his, but the law of God and nature, whereunto all princes are more straitly bound than their subiects : in such sort as that they cannot be from the same exempted, either by the Senat, or the people, but that they must bee enforced to make their appearance before the tribunall seat of almightie God : For God taketh a straiter account of princes than of others, as the maister of wisdom *Salomon* himselfe a king, hath most truly written. Whereunto well agreeth that saying of *Marcus Aurelius*, who for his desire of knowledge, was called the Philosopher : *The magistrats are iudges ouer priuat men, princes iudge the magistrats, and God the princes*. This is the opinion of 2 great princes, esteemed of all other the wisest; vnto whom we wil ioine the third, *Antigonus* king of Asia, who hearing a flatterer say, that all things were lawfull for kings : Yea, said he, for barbarous kings and tyrants. The first that vsed this kind of flatterie, was *Anaxarchus* towards *Alexander* the Great, whome hee made to beleue, That the goddesse *Iustice*, was still at the right hand of *Iupiter*, to shew that princes could do nothing but that was right and iust: Of which their iustice he shortly after made prooffe, for being fallen into the hands of the king of Cyprus, he was by his commaundement with hammers beaten to death vpon an anuill. But how much more truly did *Seneca* say to the contrarie, *Cæsari cum omnia licent, propter hoc minus licet*, When all things are vnto *Cæsar* lawfull, euen for that are they lesse lawfull. And therefore they that generally say, that princes are not subiect vnto lawes, nor to their owne conuentions, if they except not the lawes of God and nature, and the iust contracts and conuentions made with them, they do great wrong both vnto God and nature, in that they make not the speciall exemption to appeare; as men say in matters of priueleges. So *Dionysius* the tyrant of Sicilie, said to his mother, That he could dispence with the lawes and customes of *Syracusa*, but not with the lawes of nature. For as the contracts and testaments of priuat men, cannot derogate from the decrees of the magistrats, nor the decrees of the magistrats from the auncient customes, nor the auncient customes from the generall lawes of a soueraigne prince: no more also can the lawes of soueraigne princes alter or chaunge the lawes of God and nature. Wherefore the Roman magistrats did notably, who vnto the end of all their requests & laws which they propounded vnto the good liking of the people, commonly annexed this clause, *Si quid ius non esset E. E. L. N. R. eius ea lege nihilem rogetur*, that is to say, That if any thing were therein contained that was not iust and reasonable, they by that law requested nothing. But of all others they are most absurd, which say, That a soueraigne prince can decree nothing against the lawes of God and nature, without most apparant reason. For what apparant reason can there be diuised, for which wee ought to breake the lawes of God? And hereof proceed such paradoxes as this, That he whome the Pope hath dispensed withall for the lawes of God, is sufficiently assured before God: which how true it is let others iudge.

An obiection
that princes are
bound to the ci-
uill lawes.

There resteth yet another obiection, by them objected which with more reason examine matters. If princes (say they) be bound vnto the lawes of nature, that is to say, of vpright reason: and that ciuill lawes be (in all things) agreeable vnto right and reason,

A son, it must needs thereof follow, that the prince is also bound vnto the ciuil laws. And to that end they alleage that saying of *Pacutius* vnto *Theodosius* the emperour, *Tantum tibi licet quantum per leges licebit*, So much is lawfull for thee to do, as thou maiest by law doe. For the plainer aunswering of which doubt, we must thus distinguish: That the lawes of a soueraigne prince, wherof question is made, concerne either that which is publick, or priuat, or common to both: and generally when question is, it is either of that which is profitable and not honest, or of that which is honest and not profitable, or is both profitable and honest; or els of that which is neither of both. And that I call honest, which is agreeing vnto the equitie of nature; vnto which naturall equitie it is manifest all princes to be bound, seeing that which nature teacheth, is altogether

B comprehended in the law of nature, whereunto euery prince is bound to obey: neither is such a law to bee called a ciuile law, albeit that the prince cause it to bee published, but rather the law of nature. And with so much the more reason, when the law is both honest and profitable. But if that which is by law commaunded, bee neither honest nor profitable, although of such things there ought to be no law; yet may the prince bind his subiects vnto those lawes, whereunto he is not himselfe bound, if they haue no dishonour or dishonestie ioyned with them. For there bee some things honest, some things dishonest, and some in a meane betwixt both. But if profit repugne against honestie, it is good reason that honestie should take place. As *Aristides* the iust, to whom *Themistocles* was commanded to communicat his deuice, aunswered, That

C the counsell of *Themistocles* was profitable to the Commonweale; but yet in his iudgement dishonest: the Athenians hearing so much, enquired no farther after the matter, but decreed that his profitable counsell to be reiected. But here when we reason of a Commonweale, we must speake according to the common manner; which our speech is not to be examined according to the subtiltie of Philosophers: for they set downe, nothing to be profitable which is not honest, neither any thing to bee honest which is not iust: but that old custome is growne out of vse, so that of necessitie we must make a difference betwixt things honest, and things profitable. But if that which the prince by his law commaundeth, be not honourable, but profitable, he himselfe is not by that law bound, although his subiects be, so that nothing bee therein

D contained contrarie to the lawes of God and nature: and such lawes the prince may at his pleasure abrogat, or from them derogat, and in stead of them make others, either more or lesse profitable: for things honest, iust, and profitable, haue their degrees of more and lesse. If then it be lawfull for a prince amongst lawes profitable, to make choice of them that be more profitable; so also amongst lawes iust and honest, he may chuse out them that be most vpright and honest, albeit that some therby receiue profit, and some others losse; provided that the profit be publicke, and the losse particullar: and yet if the prince shall otherwise decree, it is not lawfull for the subiect to breake the laws of his prince, vnder the colour of honestie, or iustice: as if the prince in time of famine, forbid the carrying out of victuals (a thing not only profitable to the Commonweale, but oft times also iust and reasonable) he ought not to giue leaue to some few to carry the out, to the preiudice of the common state, & of other marchants in particular; for vnder the colour of profit that these flatterers and scrapers carrie things, many good marchants suffer losse, and all the subiects in generall are famished: and yet neuertheless the famine and dearth ceasing, it is not yet lawfull for the subiect to transgresse the edicts of his prince, and to carrie out victuals, vntill the law forbidding the same, be by the prince abrogated, no not though there seeme neuer so great occasions for the transgressing of the law: as that now the citie is full of victuall, and all other things necessarie; and that the law of nature persuadeth vs to giue reliefe vnto distressed

The answere, declaring to what lawes a prince is bound, and to what lawes not.

fed strangers, in letting them haue part of such good things as it hath pleased God to send encrease of more in one countrey than in another: for as much as the power of the law that forbiddeth, is greater than the apparant equitie, the show whereof euerie man might pretend to his desires, except the prohibition in the law be directly against the lawes of God and nature.

A law may be good, iust, and reasonable, and yet the prince no way subiect or bound thereunto.

But so sometimes things fall out, as that the law may be good, iust, and reasonable, and yet the prince to be no way subiect or bound thereunto: as if he should forbid all his subiects, except his guard and garrison souldiors, vpon paine of death to carrie weapon, so to take away the feares of murders and seditions; he in this case ought not to be subiect to his owne law, but to the contrarie, to be well armed for the defence of the good, and punishment of the euill. The same we may say of other edicts and lawes also, which concerne but some part of the subiects; which edicts and lawes are called priueleges, and are iust in respect of certaine persons, or for a certaine time, or place; or for the varietie of punishments which depend alwaies of the lawes; albeit that the forbidding of offences is proceeding from the lawes of God and nature. Vnto which edicts and lawes the princes are not any way bound, further than the naturall iustice of the same hath place; which ceasing, the prince is no more therunto bound, vntill the prince haue abrogated the same. For it is not onely a law of nature, but also oftentimes repeated amongst the lawes of God, That we should be obedient vnto the lawes and ordinances of such princes as it hath pleased God to set to rule and raigne ouer vs, if their lawes and decrees be not directly repugnant vnto the lawes of God and nature, whereunto all princes are as well bound as their subiects. For as the vassall oweth his oath of fidelitie vnto his lord towards & against al men, except his soueraigne prince; so the subiect oweth his obedience to his soueraigne prince, towards and against all, the maiestie of God excepted, who is the absolute soueraigne of all the princes in the world.

*That a soue-
prince is bound
to his owne con-
tracts, as well as
other men be.*

Out of this resolution we may draw another rule of estate, that is to wit, that the soueraigne prince is bound vnto the contracts by him made, bee it with his subiect, or with a straunger: for seeing he is the warrant to his subiects of the mutuall conuentions and obligations that they haue one of them against another: of how much more reason is he the debter of iustice in his owne fact, and so bound to keepe the faith and promises by himselfe giuen and made to others? As the court of parliament at Paris writ backe vnto king *Charles* the ix, in the moneth of March, in the yeare 1563, That his maiestie alone could not breake the contract made betwixt him and the clergie, without the consent of the clergie; and that for this reason, For that he was himselfe the debtor of iustice, and so bound to giue euerie man his right. Which putteth mee in remembrance of a resolution concerning the vpright dealing of princes, worthy to be engrauen in letters of gold, in their lodgings and pallaces; which is, *That it ought to be accounted amongst things which by chaunce seldome happen, if a prince fayle of his promise; and that it is not otherwise to be presumed.* For that of his promise there is a double bond; the one for the naturall equitie thereof: for what can be more agreeing vnto naturall equitie, than to haue iust promise kept? The other, for the honour of the prince himselfe, who is bound to keepe his promise, although it be vnto his losse; for that he is the formall warrant to all his subiects, of the faith that they haue amongst them; as also for that there is no more detestable crime in a prince, than to bee false of his oath and promise. And that is it for which the soueraigne prince ought alwaies in iustice to bee lesse respected or releued than his subiects, when question is of his promise. For if a prince haue once bestowed an honour or an office vpon a man, it is deemed, that he may not without iust cause take it againe away from him; but a particu-

*A notable say-
ing.*

*A soueraigne
prince lesse in
iustice to be re-
spected or releu-
ed, than his
subiects, when
question is of his
promise.*

A lar subiect may : and so it is ordinarily iudged . And wheras by the law the patron might without cause take his fee from his vassall ; yet was it not lawfull for the prince so to doe . Whereby it is well to be perceiued, the doctors of the Canon law to erre, and to be deceiued, who deny a prince to be bound to his owne conuentions or agreements, otherwise than with a naturall bond : for that say they, every bond is proper vnto the ciuill law ; which their error is to be remoued : For who can doubt , but that the bond is of the same nature with the couenant ? Wherefore if the couenant be naturall, and common to all nations, the bonds and actions arising thereof must needs consequently be of the same nature also . But no couenant almost, neither any obligation or bond can be deuised, which is not common both vnto the law of nature and nations . But let vs graunt some couenants to proceed from the meere ciuill law ; yet who dare to deny a prince to be more straitly bounden vnto such ciuill couenants, and promises, than are the priuat subiects themselves ? yea and that in so strait a maner as that he cannot with all the absolute power he hath derogate from the same ? For so almost all the learned lawyers are of opinion and accord . And what maruell ? seeing God himself is bound vnto his promises . For so he plainly protesteth with the prophet *Hieremie* , *Call together vnto me* (saith he) *all the people of the earth, that they may iudge betwixt me and my people, if there be any thing that I ought to haue done, which I haue not done* . Let vs not therefore call into question those things wherof many doctors haue doubted . As whether a prince be bound vnto the couenants which he hath made with his subiects ? whereat we need not to maruell, seeing that out of the same fountaine is sprung, that no lesse straunge position : that a prince may of right , without any iust cause enrich himselfe with another mans losse : an opinion repugnant vnto the lawes both of God and nature . But how much more vprightly was it of late iudged in the court of Paris, that the prince might giue his intrest vnto the partie condemned ; but not the intrest of another man . And that in confiscations creditours are by right first to be preferred , The same court also by another decree determined, That the prince might derogate from the ciuill lawes, so that it were done without preiudice to any particular mens right : which is to confirme the resolutions which wee before haue set downe, concerning the absolute soueraignetie . And *Philip* of Valois, by two testaments which he made in the yeare 1347, and 1350, (which are in the treasure of France in a coffer, intituled The testaments of kings, number 289) ioyneth a clause derogatorie vnto the lawes of his countrey, from which he protested himselfe to be discharged, as not vnto them bound . The like protestations he also vsed, when hee gaue vnto the queene his wife certaine treasure, and priuat lands, contrarie vnto the lawes : with aswel his prodigall gift, as also that his derogation from the lawes of his countrey, are yet extant in the publick records . Howbeit that *Augustus* the emperor thought it not good for himselfe in like case to vse the like libertie in his Commonweale , but being willing to giue vnto his wife *Linia*, that which he could not by reason of the law *Voconia*, hee requested to be dispensed with all from that law by the Senat (although that it was not needfull for him so to haue done, considering that he was long time before in all other things dispensed with from the lawes) to the intent the better to assure his gift , for that he was not a soueraigne prince, as we haue before showed . For otherwise hee had not bene any way bound so to doe ; as it was in most strong termes iudged by a decree in the court of Paris, in the case of *Philip* the second, the French king, That he was not bound vnto the customes of the ciuill law, at such time as they which were next of kindred would haue redeemed of him the countie of Guynes : howbeit that many both thinke and write, the prince to be bound to that law : for that they thinke that law to be common to all nations, and not proper to any citie : and yet then the which law the

That a soueraigne prince is bound to his own ciuill couenants :

Romans

What account
was made of the
Roman ciuill
lawes in France.

Romans themselves (in some cases) thought nothing more vnreasonable. But our ancestors would not haue euen their subiects bound vnto the Roman lawes; as we see in the auncient records, that *Philip* the faire, erecting the parliament of Paris and Montpellier declared, That they should not be bound vnto the Roman laws. And in the erection of Vniuersities, the kings haue alwaies declared, That their purpose was to haue the ciuill and canon laws in them publickly professed and taught, to make vse therof at their discretion, but not that the subiects should be any way bound therunto, least they should seeme to derogat from the lawes of their owne country by aduancing the laws of straungers. And for the same cause *Alaricus* king of the Gothes, forbad vpon pain of death, any man to allege the Roman lawes contrarie to his decrees and ordinances. Which *M. Charles du Moulin* (my companion, and ornament of all lawyers) mistaking, is therefore with him verie angrie, and in reproach calleth him therefore barbarous: howbeit that nothing was therein by *Alaricus* decreed or done, but that which cuerie wise prince would of good right haue decreed and done: for subiects will so long both remember, and hope for the gouernment of strangers, as they are gonetned by their lawes. The like edict there is of king *Charles* the faire, and an old decree of the court of Paris, whereby we are expressly forbidden to allege the laws of the Romans, against the lawes and customes of our auncestours. Yea the kings of Spaine also haue vpon capitall paine forbidden any man to allege the Roman laws, in confirmation of their owne laws, (as *Oldrad* writeth.) And albeit that there were nothing in the lawes and customes of their countrey which differed from the Roman lawes, yet such is the force of that edict, that all men may vnderstand that the judges in deciding of the subiects causes, were not bound vnto the Roman lawes: & therefore much lesse the prince himselfe, who thought it a thing daungerous to haue his judges bound vnto straunge lawes. And worthy he is to be accounted a traitor, that dare to oppose straunge lawes and straunge decrees against the lawes of his owne prince. In which doings when the Spaniards did too much offend, *Stephen* king of Spaine forbad the Roman lawes to be at all taught in Spaine, as *Polycrates* writeth: which was more straitly provided for by king *Alphonfus* the tenth, who commaunded the magistrats and judges to come vnto the prince himselfe, as often as there was nothing written in the lawes of their countrey concerning the matter in question. Wherein *Baldus* is mistaken, when hee writeth the Italians to bee bound to the Roman lawes; but the French no otherwise than so farre as they should seeme vnto them to agree with equitie and reason. For the one are as little bound as the other; howbeit that Italie, Spaine, the countries of Prouince, Sauoy, Languedoc, and Lyonnois, vse the Roman lawes more than other people: and that *Frederike Barbarussa* the emperour, caused the books of the Roman laws to be published and taught: the greatest part whereof haue yet no place in Italie, and much lesse in Germanie. But there is much difference betwixt a right, and a law: for a right still without commaund respecteth nothing but that which is good and vp-right; but a law importeth a commaundement. For the law is nothing els but the commaundement of a soueraigne, vsing of his soueraigne power. Wherefore then as a soueraigne is not bound vnto the laws of the Greeks, nor of any other stranger whatsoever he be, no more is he bound vnto the Roman laws, more than that they are conformable vnto the law of nature; which is the law whereunto (saith *Pindarus*) all kings and princes are subiect. From which we are not to except either the pope or the emperour (as some pernicious flatterers do) saying, That those two *viz.* the pope and the emperour, may of right without cause take vnto themselves the goods of their subiects. Which opinion the Canonists themselves, the interpretors of the popes law detest, as contrarie to the law of God: whereunto for all that they ioine this cuill limitation, in saying,

The Roman
lawes forbidden
to be taught in
Spaine.

Neither pope
nor emperour
exempted from
the law of na-
ture.
A dangerous
opinion, and not
to be taught to
princes.

- A** saying, That they may yet do it of their most high and absolute power and authority, as they tearme it: which is as much as if they should say it to bee lawfull for them to rob and spoyle their subiects, oppressed by force of armes: which law, the more mightie vse against them that be weaker than themselves, which the Germans most rightly call, The law of theues and robbers. But pope *Innocent* the iiii himself, most skillfull in both the lawes, saith that most high and absolute power, to bee able but to derogate from the ordinarie law: whereas they would haue such absolute and soueraigne power to extend to the abrogating of the lawes of God and nature. For what is more religiously by Gods lawes forbidden, than to rob and spoyle other men of their goods? what thing do we read more often repeated, than to keepe our hands from other mens things? yea we are by the most holy Decalogue commaunded, not so much as to desire that which is another mans. Now certainly it is a greater offence to infect princes with this doctrine, than it is to rob and steale. For pouertie commonly causeth theenes to seeke after other mens goods: but they that maintaine such opinions, show the lion his clawes, and arme the prince so instructed, to pretend vnto his outrages, this goodly show of Law and Iustice: who by nature naught, & made worse by instruction: so prouing to be a tyrant, maketh no question most shamefully to confound and breake all the lawes both of God and man: and afterward enflamed with corrupt desires and affections, which altogether weaken the more noble parts of the mind, hee quickly breaketh out from couetousnesse to vniust confiscations, from lust to adulterie, from wrath to murder. So that as thunder is indeed before the lightning, although it be latter heard: so also an euill prince, corrupted with these pernicious & pestilent opinions, peruertering iustice, causeth the fine to runne before the accusation, and the condemnation before the iudgement. Howbeit it is an incongruities in law, to say that a prince can do any thing which is not agreeing with honestie; seeing that his power ought alwaies to be measured with the foot of iustice. For so said *Plinie* the younger vnto *Traian* the emperour, *Vt enim felicitatis est posse quantum velis: sic magnitudinis velle quantum possis*. As it is (saith he) in thy happinesse to be able to doe what thou wilt; so becometh it thy greatnesse, to will what thou maist. Whereof may be gathered, that a prince can do nothing that is fowle or vniust. It is also euill done, to say, that a soueraigne prince hath power by violence to take away another mans goods, to rob, to commit adulterie, or to do euill, seeing that so to doe, is rather an impotencie, or feeblenes, proceeding from a weake mind overcome with impotent lust and desire, rather than any souerainty. Now then if a soueraigne prince may not remoue the bounds which almightie God (of whom he is the liuing & breathing image) hath prefixed vnto the euerlasting lawes of nature: neither may he take from another man that which is his, without iust cause; whether it be by buying, by exchange, by confiscation, by league with friends, or peace made with enemies, if it cannot otherwise bee concluded than by priuat mens losse; whose goods princes oftentimes permit the enemies to enioy, for the generall welfare of the subiects and of the Commonweale: howbeit that many be not of this opinion, but would that euerie man should keepe his owne; and that no publick diminution should be made of any priuat mans goods; or that if publicke necessitie so required, it were againe to bee made good by the whole state: which opinion I like well of, if conueniently it might so be done. But forasmuch as the welfare of priuat men, and all the goods of the subiects are contained in the health of our country, it becometh priuat men without grudging to forgiue vnto the Commonwealth, not onely their priuat displeasures, and iniuries receiued from their enemies, but to yeeld also for the health of the Commonweale, their goods. For peace hath for the most part some hard measure in it, which is againe recompenced with the

That a princes power ought alwaies to be measured with the foot of iustice.

Princed mens losses by princes sometimes so bee suffered, for the greater benefite of the Commonwealth.

publique profit: and this law doth all people vse, that in conclusions of peace, not on-
 ly publick things are recompensed with publike, and priuat things with priuat; but
 both with the mutuall profits and detriments of both. And yet I see many great mai-
 sters of both lawes, both to be, & to haue bene of opinion, that in those leagues where-
 in it is excepted, that no question should be made of the losse on both sides receiued,
 such exception should be void, neither to be any thing preiudiciall vnto priuat men:
 howbeit that we vse it otherwise; for in the peace of Peronne, made for the deliuerance
 of *Lewes* the xj the French king, prisoner vnto *Charles* earle of Burgundie, it was in
 one article provided, That *Seigneur de Torci* should not execute the sentence of the
 court of Paris against the lord of Saneuses. And therefore is *Thrasibulus* (and that not
 vnworthily) commended, that hauing ouerthrowne and driuen thirtie tyrants out of
 the citie of Athens, he caused the law of forgetfulnesse to be proclaimed. Wherein
 was contained the forgetting of all priuat iniuries and losses receiued in the late ciuill
 warre: which was also afterwards proclaimed in Rome, after that *Cesar* was slaine in
 the Senat; at the treatie made betwixt the conspirators on the one side, and *Cesars* par-
 takers on the other. Yet is it by all meanes to be enduoured, that mens harmes recei-
 ued, should be recompensed with other mens profits, and so as neere as may bee every
 man to haue his owne, which if it cannot be done without tumult and ciuill warres, we
 must defend the possessors of other mens things, although they hold them wrongfully,
 vntill the right honours may be satisfied out of the common treasure: or if the com-
 mon treasure be exhausted, to borrow money to content them. As did *Aratus*, who
 hauing restored his countrey to liberrie, after it had for the space of fiftie yeares bene
 oppressed with tyranny, restored also sixe hundred banished men, whose lands & goods
 had bene by the tyrant confiscated. Yet would hee not the possessors of those lands,
 which the tyrants had vniustly taken from those citisens, to be spoyled therof: for that
 much thereof was lawfully bought and sold, and much of it holden in dowrie, so that
 it could not be done without a most daungerous turmoile in the state. Wherefore he
 bound all the citisens by oath, That they should keep peace and amitie vntill such time
 as he returning out of *Ægypt*, should then take order for all things. For hauing there
 borrowed threescore thousand crownes of *K. Ptolemeus Philadelphus*, he returned into
 his countrey; and prising the land, so wrought the matter, that some made choice to
 take money and leaue the land; and other some thought it better to take mony them-
 selues, than to recouer againe that which had bene before their owne. Wherefore
 these causes that I haue said ceasing, the prince cannot take nor giue another mans
 goods, without the consent of the owner. And in all gifts, grants, immunities, and pri-
 ueledges, this clause is still annexed, *Sauing alwaies our owne right: and the right of other*
men: Which clause added vnto the inuestiture of the dutchie of Milan, which *Maxi-*
milian the emperour made to king *Lewes* the xij, was the occasion of new warres, for
 the right which the *Sforces* pretended to the dutchie, which the emperour could not
 nor would not giue away. And this clause although it be left out, is yet supposed to be
 still put in: for that even the emperour would he neuer so faine, can no otherwise giue
 or graunt any other thing to any bodie. For that which the common people common-
 ly saith, *All to be the princes*, is to be vnderstood concerning power and soueraigntie;
 the proprietie and possession of euerie mans things yet reserved to himselfe. For so
 saith *Seneca*, *Ad reges potestas omnium pertinet, ad singulos proprietates*, Vnto kings be-
 longeth the power of all things, and vnto particular men the proprietie. And a little
 after, *Omnia rex imperio possidet singuli dominio*, The king in power possesseth all
 things: and priuat men as owners. And for this cause our kings by the lawes and de-
 crees of Court, are bound to void their hands of such lands as are fallen vnto them by

The law of for-
 getfulness neces-
 sary for the en-
 ding of ciuile
 warres, and com-
 posing of conuo-
 uersies betwixt
 princes.

How it is to bee
 vnderstood, All
 to be the princes.

The king in some
 cases lesse priui-
 ledged than the
 subiect.

- A** way of confiscation (if they be not simplie and without meane holden of the crowne) to the end that the parrons of them that were proscribed, should loose nothing of their right in the lands confiscated. And if the king be debtor to any priuat man. his subiect, he is therefore oft times sued, condemned, and enforced to pay the debt. But that straungers aswell as subiects, and all posteritie may know of what integritie our kings haue bene, and with what moderation they haue borne themselves towards their subiects, let this be for example, That the king himselfe in the yere 1266, was by the iudgement of the court of Paris, condemned to pay vnto the curat, the tyth of the fruits euen of his garden of pleasure. So when another of our kings had by the negligence of his aduocat, made default of appeareance at his day; hee by ordinarie course requested to
- B** haue that negligent oversight pardoned: which the kings request the court of Paris denied, as appeareth by the decree of the court, in the yere 1419. But no such strict proceeding is vsed against priuat men, who alwaies in such case are againe restored into the state they before were. And albeit that subiects vnder xxv yeares old, almost in all priuat iudgements vse to be againe restored into the state they were, by the priuilege of their age; yet our kings although but children, are neuer so restored by the benefit of their age, but in all iudgements are deemed to bee of full age. And yet the Commonweale neuerthelesse is alwaies reputed to be in minoritie: which is to aunswere them which are of opinion, That the Commonweale ought not to be restored; in that they confound the parrimonie of the prince, with the Commonweale, which is
- C** alwaies in a monarchie diuided: but all one in a popular or an Aristocraticall state. With this stoutnesse of courage the magistrats bare themselves towards our kings, & with this moderation also did our kings reuerence iustice, preferring still in all sutes the Commonweale before priuat men, and priuat men before princes. There is also extant in the records of the court of Paris, a iudgement giuen against king *Charls* the seuenth, wherein he was condemned to suffer a wood of his to bee cut downe which hee had neere vnto the citie of Paris, for the publike vse in generall, and the vse of euerie one of the citisens in particular: and that more was, the price thereof was set downe for him in the decree, whereunto a priuat subiect could hardly haue bene drinen. Then was it plainly to be seene how much a king differed from a tyrant: for when this *Charls* the
- D** vij had driuen the English forces out of the hart of Fraunce, and easily taken the citie of Paris (which confederated with the English, had wrested the scepter out of this kings hand) he was so farre from reuenging of his receiued iniuries, that hee vsed the citisens most curteously, and showed himselfe more obedient vnto the iudges than priuat men haue vsed to be. When at the same time *Philip Maria*, duke of Milan, hauing oppressed the Commonweale with taxes and tributes, embarrated also his ports and riuers, in such sort as that none of the citisens without his leaue could passe or trauell thereby, but that first they must therefore pay money.

Thus we haue hitherto showed in what sort a soueraigne is subiect vnto the lawes and conuentions by him made with his subiects: Now it resteth for vs to see whether

E he be subiect vnto the contracts and promises of the kings his predecessours; and whether such his obliging be compatible with soueraigne maiestie or not. Which in few words to discusse, passing ouer a multitude of nice questions which might bee made in this matter: I say that a prince is bound vnto the couenants of his auncestors as well as other priuat heirs, if his kingdome come vnto him by inheritance, or bee giuen him by testament being not next of kinne: as *Ptolemee* king of Cyrene, *Nicomedes* king of Bithynia, *Attalus* king of Asia, and *Eumenes* king of Pergame, by their wils appointed the people of Rome to inherit their kingdomes. But what if a kingdome be by will giuen vnto the next of kinne: as *Henry* the eight by his will left the kingdome of Eng-

Whether a soueraigne prince be bound to the promises or conuentions of the kings his predecessours or no.

land to his son *Edward* the sixt: and substituted vnto him his sister *Mary*, and vnto her *Elizabeth* her sister, who all successiuely enioyed the kingdome. In this case wee must distinguish, whether the appointed heire will accept the state in the qualitie of an heire by testament appointed; or renouncing the succession of the testator, demaundeth the crowne by vertue of the custome and law of his countrey. For in the former case the successour is bound vnto all the hereditary obligations and actions of his predecessours, as if he were a priuat inheritour: but in the second case, he is not bound vnto the dome of his predecessour, albeit that his predecessour were thereto sworne. For neither the oath nor the obligation of the dead predecessour, bindeth the successour in the law, more than so farre as the obligation made by the testatour tendeth to the good of the Commonweale, and so farre he is bound. And therefore king *Lewes* the xij, when he was demaunded the artillerie lent vnto *Charles* the eight, answered, That he was none of *Charles* his heire. So of late king *Francis* the second, to like effect writ his letters vnto the lords of the *Swissers*, demaunding of him his fathers debts, the copie whereof taken out of the records, bearing date the xix of Ianuarie 1559, I haue here set downe as followeth, *viç. Although that we be not bound to pay the debts of our most honourable Lord, and dead father: for that we haue not taken vpon vs this crowne by right of inheritance as his heire, but by the royall law and custome generally obserued euen from the first institution thereof, which bindeth vs not, but onely to the obseruing of such confederations and treaties, passed and made by the kings our predecessours, with other forren princes and Commonweales, for the good and profit of this crowne. Neuerthelesse desiring to discharge the credit and conscience of the said our dead lord and father, wee are resolved to discharge his lawfull debts, &c. Onely this requesting you, to moderat the interest, in such sort as you haue vsed, according to the lawes and customes of your countrey, and that no greater be of vs exacted.* Which his request the *Swissers* by their common decree approued, so that whereas before they had taken of our people so deepe intrest, as euery sixt yeare came almost to as much as the principall, (which is twice so much as they doe in Fraunce) they brought it downe to a third part, which commeth to so much as the principal but in twentie yeares. But that our kings were not bound vnto the bonds of their predecessours, the court of Paris determined, *viç.* In the yeare 1256. Wherefore they are greatly deceiued, which receiue as from an oracle the formall and conceiued words of the oath which the bishops of *Rheims* haue at their pleasure not long since deuised, which our kings at their coronation now vse. For after that the archbishop of *Rheims* hath set the crowne vpon the kings head, the twelue peers of Fraunce putting to their hands, he saith vnto him these words, *Stay you here* (saith he) *and the kingdome which you haue before vntill now holden by succession from your father, now from henceforth hold as the true heyre thereof, put into your hands by the power of almightie God, and by the iust deliuerie thereof, which we the bishops and other the seruants of God here presently make vnto you.* An honest speech if it were true. But I thinke no man doubteth, but that the king euen before his consecration enioyeth both the possession and proprietie of the kingdome, not by inheritance or his fathers right, and much lesse by the bountie of the bishops or peers, but by the royall law and custome of the realme, as was long since decreed by * a decree of the French men, That no man should thinke the power of the king to depend of the pleasure of the bishops: not for that the Senar euer doubted of the power of the king before his coronation; but that those vaine quirkes of the bishops might be vtterly refelled. For it is an old prouerbe with vs, That the king doth neuer die, but that so soone as he is dead, the next male of his stocke is seised of the kingdome, and in possession thereof before he be crowned, which is not conferred vnto him by succession of his father, but by vertue of the law of the land; least the succession

The letters of
the French king
vnto the *Swissers*

* Anno. 1463

The king neuer
dieth.

A sion of the kingdome should be vncertaine, then which nothing can be more daungerous in a Commonweale. Wherefore let vs this hold, that the king which is by lawfull right called vnto his kingdome, is so farre bound vnto the couenants and promises of the kings his predecessours, as is for the good of the Commonweale: and so much the more, if the contracts were made by the consent and good liking of the people in generall, or of the states, or high court of parliament: which it is not onely seemely for a king to keepe, but also necessarie, although it be hurtfull vnto the Commonweale, considering that it concerneth the faith and obligation of his subiects. But if the soueraigne prince hath contracted either with strangers, or with his subiects, for such things as concerne the Commonweale, without the consent of them wee haue before said, if any great harme redound vnto the Commonweale by such contract, it is not reason the lawfull successour to be therunto bound: and much lesse if hee haue obtained the kingdome by election: For that he holdeth nothing from his predecessor, as he should doe if he held his state by resignation, for then he should be bound vnto the contracts and promises of his predecessours, except it were expressly otherwise excepted. But by what right soeuer the prince shal haue receiued his kingdome, whether it be by law, by testament, by election, or by lot, it is reason that the successors should performe all such contracts of his predecessor, as redounded to the profit of the Commonweale: for otherwise it should be lawfull for him contrarie to the law of nature, by fraud and indirect meanes to draw his owne profit out of others harmes: but it much concerneth a Commonweale, so much as in it lieth, to preserue and keepe the publike faith, least in the extreame daungers thereof, all the meanes for the reliefe thereof should be shut vp. And thus are to bee vnderstood, those things which the court of Paris decreed in the yeares 1256, and 1294, viz. The king not to be bound vnto the couenants and agreements of the former kings his predecessours: their opinion being reiecte, which say, That a soueraigne prince is to be thrust out of his kingdome, if he performe not the testament of the former prince his predecessor: without putting the difference of princely successions, by vs before put, but vtterly confounding the succession of princes.

But what needeth (might some man say) this distinction in succession of princes: seeing that all princes are bound and subiect vnto the lawes of nations, whereof contracts and testaments do depend. Which is not so if wee speake of all contracts and testaments in generall: but admit that to be true, yet thereof it followeth not, that a prince is more bound vnto the laws of nations, than vnto his owne: and that so far as they agree with the laws of God and nature: wherunto all that we haue said concerning the obliging of princes, is to be referred. For as for the laws of nations, if they be any of them vniust, the prince may abrogat them by the law of his realme, & forbid his subiects to vse the same: as we said before of seruitude and slaues: which by a dangerous example, by the law almost of all nations brought into Commonweales, were againe by the wholsome decrees of many princes well agreeing with the lawes of nature taken away: which being said of one thing, may also be extended vnto other things of like condition: provided alwaies, that nothing be done contrarie to the lawes of God and nature. For if iustice be the end of the law, and the law is the worke of the prince, and the prince is the liuely image of almightie God; it must needs follow, that the law of the prince should be framed vnto the modell of the law of God.

CHAP. IX.

¶ Of a Prince tributarie or feudatarie: and whether he be a soueraigne Prince: and of the prerogative of honour amongst Soueraigne Princes.



His question deserueth a speciall Chapter by it selfe, for that it hath no communitie with the auncient markes of Soueraigntie, which were before the right of Fees, vsed in all Europe and Asia, and yet more in Turkie than in any place of the world: where the Timariots hold not the Fees they haue to serue in the warres, but so long as pleaseth the king of the Turkes, who giueth them no longer but for tearme of their liues: which haue them with condition, that in time of warre the Timariots shall of their owne charge without any pay bring such a number of horsemen and horses, as is appointed in the subsidie bookes, according to the proportion of the rent of the fees, which they cal *Timar*, which is to say in their language, the *Vse and profit*: deriued as I suppose of the Greeke word *τιμῶν*; and the word *Timar* signifying with them the honourable vse and profit, which is the true nature of Fee, to bee free from all tribute or base charges. And for this cause the vassall in the auncient law of the Lombards, is called *Leude*, which is to say, franke and free: *Aldius* and *Alda*, affranchised, from whence the words *Alaudium* and *Laudimia* are deriued, signifying the honourable rewards woont to be giuen to the lord of the fee, taking the oath of fealty of his vassall. But hauing thus much said for the explanation of these words, let vs proceed vnto our purpose.

We haue said here before, him to be an absolute soueraigne, who next vnto almighty God, is subiect vnto none: neither holdeth any thing next vnto God, but of his owne sword: For if he be enforced to serue any man, or to obey any mans command (be it by his owne good liking, or against his will) or if he hold of another man, he looseth the title of maiestie, and is no more a soueraigne, as saith a certaine Poet:

*Esse sat est seruum, iam nolo *vicarius esse:
Qui Rex est, Regem Maxime non habeat.*

* These Vicarij
were slauces com-
manded.

To be a slaue it is enough, I will not serue a slaue:
Who is a king, friend *Maximus*, no other king must haue.

If they then which hold in fealtie and homage haue no maiestie or soueraigntie, there should be but few soueraigne princes to be found. And if wee graunt that they which hold in fealtie and homage, or that are tributaries, be soueraignes, wee must by the same reason confesse, the vassall and his lord, the master and the seruant, to be equal in greatnes, power, and authoritie. And yet the doctors of the law hold that the dukes of Milan, Mantua, Ferrara, and Sauoy, yea euen and some Counties also are soueraignes: which altogether differ from those things which wee haue before said of the right of maiestie and soueraigntie. Wherefore it is requisit for vs more exquisitely to entreat of these matters, whereof dependeth the principall point of soueraigntie, and the prerogative of honour amongst princes, which they esteeme as a thing vnto them most deare of all things in the world.

Wee said before in the Chapter of Patronage (which we otherwise call Protection) that princes which are in protection, if they haue no other subiection, hold yet their maiestie and soueraigntie, although they haue enred into unequal alliance, whereby they are bound to acknowledge their protectors in all honour. But there is great difference betwixt them which are in simple protection onely, and them which hold

The countie of
Asti.

A in fealtie and homage. For the client, or he which is the simple protection of another prince onely, acknowledgeth his patron his superiour, in the league of their confederation, but no further than the dignitie of the person and place requireth: but the vassall, or he which holdeth in fealtie and homage; is glad not onely to acknowledge his lord for his superiour, but is enforced also in humble wise to giue vnto him his faith and dutie, or els to forgo his fee. When I say fealtie & homage, I meane the oath of fidelity, the submission, the seruice, and dutie of the vassall, which he is by the tenour of his fee bound to giue vnto his lord.

The difference berwixt him which is onely in the simple protection of another prince, and him that oweth vnto him fealtie and homage.

Which that it may be the better vnderstood, we will make nine degrees of inferiours, in respect of their superiours: beside him who next vnto almighty God, acknowledgeth none superiour vnto himselfe. The first sort, is of such princes as are in the protection of him whose maiestie they obserue and reuerence, and commonly giue themselves into his protection, so to bee the safer against their most mightie enemies. The second, is of such princes as acknowledge a superiour in their confederation, vnto whome they vse to pay a tribute or pension; so by his helpe and aid to bee the safer: which deserueth not to be called patronage, because it is mercenarie, whereas vnto kind dutie no reward is due. The third is, of such princes as being overcome by the more mightie, haue of him receiued peace, who yet keepe their maiestie and soueraigntie, with condition, courteously to reuerence the maiestie of the victor, and to pay vnto him a yearely tribute, for which they are from him to receiue neither protection nor aide. And albeit that these seeme to be more charged than they which are but in protection; yet is it so, that in effect they are greater, for in paying the tribute they haue promised for their peace, they are acquitted, and haue nothing to doe with any other for the defence of their estate. The fourth sort is of them which are themselves kings, and freely exercise their soueraigntie ouer their owne subiects; but yet are vassales or feudataries to some other prince for some fee, bee it greater or bee it lesse, which they from him receiue. The fift sort, is of them which are not kings, neither haue any soueraigntie, but are become vassals for their fee, and are simply called meere vassals, who are bound to defend the honour of their lord, and to take vp arms for him, but not at all times, nor against all men. The sixt sort are they whom wee call liege vassals, who are not naturall subiects vnto the prince, but hauing giuen him their faith, are bound to defend his dignitie and honour, and for his defence to take vp armes without exception; yet not alwaies, nor in all places, but so farre forth as the profit of the fee, or the contract of their vassallage extendeth. The seuenth sort are they whom we call subiects, whether they be vassals or tenants, or such as hold no land at all, who are bound to fight for the honour and defence of their prince as well as for themselves, and to haue the same enemies and the same friends that he hath. The eight sort is of them, which in former time deliuered from slauerie, yet retaine a certaine kind of seruitude, as doe they which are tied vnto the soyle, and are of vs called Mort-maines. The last sort are the right slaues. This distinction of the degrees of subiection, I haue made to take away the confusion that many make of the subiect with the vassall; and of the simple vassall with the liege man; and hold, that the liege man oweth all obedience vnto his lord towards and against all men; and that the simple vassall reserueth his superior: and yet neuertheless there is but the subiect onely which oweth his obedience. For the vassall, be he liege or simple, if he be not a subiect, oweth but the seruice and homage expressed in his inuestiture, from which hee may without fraud exempt himself, by yeelding vp his fee: but the naturall subiect, which holds in fee, in farme, or fee simple, or be it that he hold nothing at all that he can call his owne, yet can hee not by any meanes without the consent of his prince exempt himselfe from the personall

Nine degrees of subiection of inferiours towards their superiours.

The difference of a vassall, or a liege man, from a naturall subiect.

obligation wherewith he is vnto him bound, as we have before declared. The simple vassall is bound but once in his life to giue his oath of fidelitie vnto his lord: and such a vassall it may be as is neuer bound to giue his oath: for that the fee may bee without any such obligation of giuing his faith, as is to be seene in the old lawes of fees, (contrarie to that which *M. Charles du Molin* hath both thought and writ) but the subiect whatsoeuer is alwaies and in all places bound to give his oath, and so oft as it shal please his soueraigne prince to require it: yea although he were a bishop without any temporalitie at all. As for the liege man, it is not requisite that he should bee subiect vnto the lord of whom he holdeth: for it may be, that he may be a soueraigne prince, holding some seignorie of another prince in liege, fealtie and homage: it may also be, that he may be the naturall subiect of one prince, and liege man to another, by reason of his fee: or well the simple vassall of one Lord, without being subiect or liegeman to another: and naturall subiect to another, to whome he is iusticiable, and yet holdeth of him neither fee nor reuenew. For the vassall of a vassall is not for that, either vassall or subiect of the same lord, if it bee not in regard of the same fee. But it is needfull to explaine that we haue said by examples.

We find that the kings of England haue giuen their liege faith and homage vnto the kings of Fraunce for all the countries which they hold on this side the sea, except the counties of Oye and Guynes: And yet neuerthelesse they held the kingdomes of England and Ireland in soueraigntie without acknowledgement of any other prince whatsoeuer. But after in the year 1212 they made themselues vassalls vnto the Pope and the church of Rome, and not onely vassalls, but also tributaries: beside the annuall gift of smoke money, of auncient time graunted by *Ine* king of England, in the year 740, & augmented by *Etelpe*, which they called *S. Peters pence*. For it is found, that *John* king of England, by the consent of all the counties, barrons and lords of the land, made himselfe vassall vnto the pope and church of Rome, and vowed to hold the realmes of England and Ireland of him in fealtie and homage, with the charge to pay the yearly rent and reuenew of a thousand markes for euer, vpon *Michaelmas* day, beside the *Peter pence*, which I haue spoken of: & gaue his faith and homage vnto the legat of pope *Innocent* the third, in the year 1213, in the presence of his chauncelor, the archbishop of Canterburie, foure bishops, sixe counties, and many other great lords. The Bull was made in autentique forme, whereof I haue seene the copie in a register of the Vatican, taken out by the commaundement of chauncelour du Prat, when he was Legat. And albeit that *Sir Thomas More*, chauncelour of England, was the first that maintained the contrarie: yet so it is, that in the same time, and vntill that king *Henrie* the eight reuolted from the pope, in the year 1534, the yearly reuenew and tribute was alwaies paid. But that is worth the noting, that the act of fealtie and homage, giuen vnto pope *Innocent* the the third, importeth that *John* then king of England, humbly requested forgiuenesse of his sinnes of the popes legat. Whereby it is plaine, that patronage of the bishop of Rome to haue bene by him sought for, to extenuat the horrible murder which he had cruelly committed vpon the person of young *Arthure* his brothers sonne, duke of Britaine, and lawfull successeur to the crowne of England; least otherwise he should haue bene therefore excommunicated by the pope. Whereas *Philip Augustus*, king of Fraunce, for the same cause had confiscated the duchies of Normandie, Guyenne, Aniou, Touraine, le Maine, & all the countries wherevnto he pretended any right, on this side the sea: which the kings of England held by fealtie and liege homage of the king of Fraunce; and yet had the chiefe soueraigntie ouer the realmes of England, Ireland, and Scotland. For first *Constantine* king of the Scots, with the rest of the nobilitie of that country, did fealtie and homage to *Adelstan* king

A king of England; and after that *Baliol* king of Scots did fealtie and homage also to the king of England, declaring himselfe to hold the kingdome of Scotland vnder the protection of the English, excepting the xxxij Islands of the Orcades, which then & afterwards also were holden in fealtie and homage of the kings of Norway; and owe vnto the new king comming to the crowne ten markes of gold, as was agreed betwixt the kings of Scotland and Denmark, to end the warres, which were renewed for the same isles, in the yeare 1564; as I haue learned by the letters of *M. Danzai*, ambassador for the king in Denmarke. Howbeit the kings of Scotland which raigned after *Baliol*, renounced their homage vnto the English, neither acknowledging them for their superiours, or yet to be vnto them vassals. And albeit that *Dauid* king of Scots did what he could with his subiects to consent that the kingdome of Scotland might bee holden of England in fealtie and homage: yet so it was, that he remained nine yeares in prison, and by the treatie made betwixt *Edward* the third his brother in law, and him; it was agreed, that he should be set at libertie, without any more obtained from his estates but that he should liue in amitie and friendship with him. As for the realme of Ireland, it is not long since it receiued the English gouernment, excepting yet the earle of *Argueil*, who seemed alwayes to keepe the state of soueraigntie.

B So might we say also of the king of Denmarke, who is a soueraigne prince in part of the kingdome of Norway, without acknowledging any prince for his superiour whatsoeuer; and yet holdeth part of the duchie of *Holsatia* of the emperour in fealty and homage: in which sort he in auncient time held the countrey of Denmarke, which was but a plaine dukedome, when *Canutus* duke of Denmarke yeelded fealtie and homage vnto the emperour *Lothaire*, and afterward to the emperour *Frederike* the first: who first of all sent vnto *Peter* duke of Denmarke the sword and the crowne, and honoured him with royall dignitie; yet with condition, That hee should for euer yeeld vnto the emperour fealtie and homage: howbeit that his posteritie afterwards reuolted from the empire. And yet neuertheless these whome I haue named, beeing no subiects, neither acknowledging the greatnes of any prince, but in respect of the fees that they hold of other princes, are acquitted of their fealtie homage and seruice, by giuing vp their fee without fraud. I say without fraud, for that it is not lawfull for the vassall to forsake his lord and patron at his need, although he would renounce his fee: albeit that there be no other penaltie but the losse of fee appointed for him who in time of warre forsaketh his lord; for that he doth an irreparable preiudice vnto his honour, which for euer remaineth engaged for so foule a fact, as to haue forsaken his lord in time of daunger: seeing that by the oath of fidelitie the vassall, but especially the liege vassall ought to aide him, were it against his owne brethren and children. Yea some lawyers are of opinion, that he ought to aid his lord and patron, euen against his owne father: wherein I can in no wise agree with them, for that the first and chiefe fidelitie is due vnto our parents. But if the vassall be also a subiect, hee looseth not onely his fee and honour, if he forsake his soueraigne prince at his need, but euen his life thereon dependeth: seeing that it is death euen for a common souldior, not to defend his capitaine in battell. Wherefore we are not to maruell, if *Iohn de Montfort*, and *Peter*, dukes of Britaigne would neuer yeeld their fealtie vnto the French kings without exception, as their liege men for the dukedome of Britaigne: about which matter the chauncelors of Fraunce and Britaigne were twice at debate before the kings, *Charles* the first, and *Charles* the sixth. And albeit that these two kings caused two acts to be produced, concerning the fealtie and homage done by the dukes of Britaigne, to *Phelip* the victorious and *Lewes* the eighth: yet for all that, the dukes would not doe their homage as liege men, but were receiued doing their simple homage onely. True it is, that the liege

The kings of Denmarke in auncient time vassals vnto the German empire.

A fee is not to be given up but simply and without fraud.

homage

homage yeilded to *Lewes* the eight, was not but for the life of him that did it, as appeared by the act, without binding of his successours. And the other act which is of yong *Arthure*, was not pure and simple, but onely conditionall; as to be restored by *Philip* the victorious, vnto the territories and seignories from which he was imbarred; which he did not. Now such is the force and nature of true and lawfull acts, as not to admit any time or condition, and the act of fealtie and homage of all other acts the least. But the end of the controuersie was, that the simple oath of *John* and *Peter* should bee taken, least they should seeme to bee the liege vassals of the French: although both those dukes ought of right to haue bene deprived of the fee of the dukedome of Britaigne, for that they had renounced the French king their lawfull patron. Neither is there any doubt, but that in truth the auntient counties of Britaigne were true subiects and liege men vnto the kings of Fraunce (as is to be seene in the histories of *Gregorie* bishop of Tours) and being reuolted, were subdued by *Charlemaigne*, and afterwards by *Lewes* the deuout, to whom they did homage, and yeilded all obeysance with hostages; as a man may see in the histories of *Floard* and *Girald*, whome some call *Vitald*, the nephew of *Charlemaigne*. And againe for another rebellion against *Charles* the Bauld, in the yeare 1359, they were accused vnto the estates, of treason, & so condemned and executed: which could not haue taken place but against the naturall subiect, for treason against his soueraigne prince. And after that *Herisso* countie of Britaigne, doing his fealtie, and with a great summe of money giuen appealed *Charles* the Bauld: as had also, before him duke *Iudicael* pleased *Dagobert*. Neither is it true, or like to be true, that *Clodoneus*, who had bounded the kingdome of Fraunce with the Pyrenei Mountaines, both the seas, and the riuer of Rheine; or *Charlemaigne* that had in many places vanquished infinit numbers of the barbarous nations, and had subdued Spaine, Italie, Hungarie, Germanie, the Saxons, them of Pomerland, the Polonians, and Russians, and had extended his empire euen as faire as Scithia, would haue receiued the dukes of Britaigne, euen in the bowels of Fraunce, as companions of the French empire. And admit that by the fauour of any the French kings, they obtained respire of homage, that could not be preiudicial vnto the kings their successours, and much lesse vnto the crowne of Fraunce. And that more is, in the treaties betwixt the kings of Fraunce, and the first dukes of Normandie, it is expresly set downe, That the counties of Britaigne, should be vassals vnto the dukes of Normandie, vnto whome they had oftentimes giuen their fealtie and homage: which could not possibly haue bene, if they had not bene vassals and liege men vnto the crowne, seeing that the dukes of Normandie had giuen their fealtie and liege homage vnto the kings of Fraunce, & the counties of Britaigne vnto the dukes. And if true it be, that the vassall can neuer prescribe for his fealtie and homage against his lord; how then can the subiect prescribe for his subiection against his prince? So the Seneschall of Renes (a man verie well learned) cannot abide that *Peter de Dreux* prince of the blood, surnamed *Maucler*, had acquitted the soueraigntie of Britaigne vnto the kings of Fraunce, seeing that hee was vassall and naturall subiect vnto the king: and yet neuertheless, in yeilding the homage, had reseruatiō to make lawes, to graunt pardons, to call parliaments, to take the benefit of confiscations euen in cases of high treason, the regall rights in churches, and feofments of trust. By which arguments not onely probable, but also necessarie, I am perswaded to write the dukedome of Britaigne, now euen from the times of the first kings of Fraunce, to haue bene a prouince of the kingdome of France, although *Argentreus* otherwise thinke. Yet is it worth the noting that *John Montfort* and his successors, although they went about to haue rent the dukedome of Britaigne from the kingdome of Fraunce, yet as counties of Montfort and Virtus to haue alwaies yeilded

The auntient
counties of Bri-
taigne, vassals
to the kings of
France.

Roialties refer-
ued vnto the
dukes of Bri-
taigne, nowish-
standing their
homage due vnto
the French
king.

A ded their fealtie vnto the French kings, without exception, as we read in the records, although that they still exercised in the countries of Britaigne certaine roialties granted them by the king.

There is then great difference betwixt him which holdeth simply in fealtie and homage (being himselfe no soueraigne, nor subiect vnto him which is lord of the fee): and him which is soueraigne of a countrey, and yet vassall to some other lord for some fee; as of him which is in protection onely, or which is tributarie vnto a prince, hauing soueraigntie ouer his subiects, or which is himselfe a naturall subiect. Wherfore we conclude, that there is none but he an absolute soueraigne, which holdeth nothing of another man; considering that the vassall for any fee whatsoeuer it be, be hee Pope or Emperor, oweth personall seruice by reason of the fee which he holdeth. For albeit that this word *Seruice*, in all matter of fees, and customes, is not preiudiciall vnto the naturall libertie of the vassall; yet so it is, that it importeth a certaine right, dutie, honor and reuerence that the vassall oweth vnto the lord of the fee: which is not indeed a seruitude reall, but is annexed and inseperable from the person of the vassall, who cannot be therefrom freed, but by quitting his fee: provided yet, that hee bee no naturall subiect of the lords of the fee, from whome he cannot discharge himselfe by renouncing his fee.

The prince that holdeth of another, is himselfe no absolute Soueraigne.

Now when I say, that homage and personall seruice is inseperable from the vassall; that is so true, as that the vassall cannot acquit himselfe thereof by his deputie or attorney, as was permitted by the auncient lawes of fees; which in this point is abrogated in Europe, and Asia; yea and in Italie it selfe from whence the lawes of fees, (as many thinke) first tooke their beginning: For *Lewes Sfortia*, gouernour of Lombardie, sent his Agent into Fraunce, to king *Charles* the eight, to haue obtained of him that his nephew the duke of Milan might by him be receiued to do his homage by his deputie for the duchie of Genes: whereunto the king would not condescend. And when question was made of taking of fealtie and homage of the marques of Salusse, the court of Paris decreed, That his deputie should be admitted in his name, if the king so thought it good; for that the marques pretended himselfe to be sicke: yet with that condition, that so soone as he was able he should come and doe it himselfe in person. The same

Homage a personall seruice, and not to be performed by a deputie.

D hath also bene oft times iudged in such like cases. But contrariwise the lord of the fee may constrain his vassall to yeeld his fealtie and homage vnto his deputie, as is commonly vsed. But if the vassall be yet vnder age, or so young as that he yet wanteth vnderstanding, he is to be borne with for doing of his fealtie and homage, vntill he be of age to do it, except it please the lord of the fee to receiue it by his deputie: As did king *Lewes* the xj, who by *Philip Commynes* his ambassador receiued fealtie & homage of the mother of young *Galeas* duke of Milan, for the duchie of Genes, the duke her sonne being vnder age, and paying fiftie thousand ducats for reliefe. And for the same cause in the treatie made betwixt *Lewes* the eleuenth, and *Maximilian* archduke of Austria, in the yeare 1482, in the 56 article it was expressely set downe, That the subiects

E on both parts should be receiued to do their homage by their attorneies, which otherwise they should haue bene constrained themselves in person to haue done, if they had not bene sicke, or had some other iust and reasonable let; or that it was some bodie collegiat. For it much concerneth the honour of the lord and parson, whether homage be done vnto him in the person of a king his vassall, or by some oether base attorney or deputie. And for this cause it was agreed in the treatie of Amiens, made betwixt *Philip the faire* the French king, and *Henrie* king of England, in the yeare 1303, That the king of England should himselfe in person come to do his fealtie and homage without exception, if he were not otherwise letted by sicknesse without deceit: in which case

he

he should send his eldest sonne to doe the fealtie in his stead. And by another treatie made in the yeare 1330, betwixt *Philip Valois*, and king *Edward* the third; it was also said, That the king of England should in person come to doe his fealtie and homage, if he were not without fraud by sicknesse letted; which ceasing, hee should then also come. And by the treatie of peace, made in the yeare 1259, betwixt *Lewes* the ninth the French king, and *Henrie* the second, king of England, it is expressly declared, That the king of England should in person himselfe yeeld his fealtie & liege homage vnto the French king. Which liege homage (as they tearme it) is of that force, as that the person of no prince, pope, or emperour, is therein excepted. Now the forme of the homage declared by the treatie, in the yeare 1331, betwixt *Philip Valois* the French king, and *Edward* the third, is this: The king of England hauing his hands ioyned, and put betwixt the hands of the French king, the Chauncelor of Fraunce for the French king, shall thus say vnto the king of England, *Thou shalt become a liege man to the king of Fraunce, who here is, as duke of Guyenne, and peere of Fraunce, countie of Poitou, and Montstrucil, and shalt promise to beare vnto him faith and loyaltie*: Whereunto the king of England shall say, *I consent thereunto*: Then the king of Fraunce shall receiue the king of England into his fealtie with a kisse. But the oath of *Charles* the king of Nauarre was more religious, when he yeelded his fealtie vnto *Charls* the fift, the French king, in the yeare 1370: for that he was not onely the French kings vassall, but his subiect also, vnto whome hee promised his faith and loialtie towards and against all men, which could liue or die: albeit that he was then soueraigne king of Nauarre, and pretended a right vnto the soueraignie of Berne, which yet resteth vndecided. The forme of the simple homage done by *John de Montfort*, *Arthure* the second, and *Peter* the second, dukes of Britaigne, is like, excepting the word *Liege man*. But for vassals which be also subiects, the forme of fealtie is more religious & precise, for that they are bound with a double bond, whereas the forren vassals are not so. For the king of England, *Edward* the third being come to Amiens to doe his homage vnto the king of Fraunce, refused to ioine his hands betwixt the hands of the king, and so returned into his kingdom, where it was sixe moneths debated betwixt the French kings commissioners, and the assembly of the estates, about the resolution for the forme of the homage: in fine, king *Edward* thought it better to follow the prescript forme, than to loose so many benefits as he then enjoyed in Fraunce. But if the vassall be also a naturall subiect vnto his lord and patron, he is bound to lay by his sword, his gloues, his hat, his cloke, his spuries, and vpon his knees to put his hands ioyned together, into the hands of his prince, or of his deputie, and so to take his oath: and by the custome of this realme, if it pleaseth not the lord, he is not bound to be present, or to kisse his vassall; but may (if he so please) being present, see him in forme, as we haue aforesaid, giue his fealtie and homage to some small officer, or before his house, by kissing the hammer of his doore. But by the customs of Vermandois, the vassall is bound to do his fealtie vnto his lord being present; but if he be absent, it is sufficient for the vassall being present, to cause it to be done by his attorney, least the honour of the vassall should bee impaired by the basenesse of the person of his lords attorney. But if the vassall haue thirtie heires, euery one of them is constrained to yeeld his fealtie vnto his patron requiring the same: as was long since provided by the decree of *Philip* the Victorious, the French king, in the yeare 1209. Yet some vse another custome.

Homage a base
& seruile thing,
and therefore de-
scended of honora-
ble princes.

Shall we then say, a Vassall (that is to say another mans man) although he at home enioy a kingdom, to haue a soueraigne maiestie and power? Shall we call him that is bound to doe most vile seruices, (and to vse the words of fealtie) him that serueth another man, shall we call him, I say, a soueraigne prince? And that is it for which manie

honoura-

A honourable princes had rather to loose and forgoe right great feignories, and their most rich fees, than to serue such a slauierie. And other some againe, to the contrarie, would not sell their soueraigntie for any thing in the world. As the prince of Orange refused of king *Lewis* the eleuenth, ten times so much as his principalltie was worth, which stood him in more than hee receiued profit thereby: And for the same cause *Edward* the third, king of England, in the first article of the treatie of Bretigni expressly excepted, that all royalties should be giuen vnto himselfe in those countries which he had by inheritance in Fraunce; least he should for them haue beene enforced to haue yeelded fealtie and homage vnto the French kings. Neither for any other cause did *Stephen*, Vayuod of Valachia, reuolt from the kings of Polonia, but for that the king

B of Polonia had caused his tent to be cast wide open at the same very instant that the Vayuod was therein doing vnto him his homage, that so he might be seene of all men in doing of it. Which shie disgrace the Vayuod tooke in very euill part: which is not to be maruelled at in so great a lord as he, if wee doe but consider, that *Calisthenes* the nephew of *Aristotle* chose rather to loose his life, than after the Persian guise, in humble and deuout manner vpon his knees to honour *Alexander* the Great: albeit that *Alexander* courteously tooke them vp with a kisse that so honoured him. Which was also an vsuall thing with the Romane emperours, when they gaue vnto the kings that were in their protection, their scepters and diademes. For so *Tridates* king of Armenia being come to Rome, humbled himselfe vpon his knee before the emperour *Nero*, whom *Nero* taking by the hand, lift him vp, kissed him, and taking his turbant from off his head, set thereon a royall crowne, and caused him to sit on his right hand. For albeit that the kingdomes were giuen by the Romane emperours without reseruatiō of fealtie or homage, yet so it was, that the kings laying aside their scepters and crownes, of their owne accord serued the Romane emperours, some as seruitors in their chambers; other some called themselves but the Romane stewards, as *Adherball* king of Numidia tearmed himselfe nothing but the steward of the people of Rome. And *Eumenes* king of Pergame after the discomfiture and death of *Mithridates* king of Pontus came to Rome, and with a cap vpon his head (in token of his late recovered libertie) thanked the people of Rome for the same. But *Prusias* king of Bithynia as oft

D as he went into the Senate, commonly kissed the threshold of the gate, calling himselfe the Senates slaue: albeit that he was neither subiect nor tributarie, nor so much as in the Romanes protection, but ioyned vnto them in equall confederation. All these honours, were they neuer so great, proceeding from their owne voluntarie will, did little or nothing at all diminish the maiestie of a soueraigne prince; as doth that forme of homage which is seruile and constrained, and which the Tartars, Persians, and Turkes esteeme to bee the true seruice of a very slaue. And truly *Solyman* the Turkish king was about to haue restored *Iohn* king of Hungarie into his kingdom in the yeare 1555, with condition to haue holden the same of him in fealtie and homage, without other subiection (as he by a Chiaus his embassadour, certified *Sigismundus Augustus* king of Polonia) if king *Ferdinand*, who pretended the kingdom of Hungarie to belong vnto himselfe by inheritance, had not letted him so to doe; as I haue seene by the letters of *Sanislaus Rosdrazeroski*, a Polonian, written to *Anne Mommorancie* constable of Fraunce the same yeare 1555. And for this cause *Francis* the French king to hinder that *Charlet* of Austria should not bee chosen emperour, declared vnto the princes, Electors of the Empire, that the maiestie of the Empire should be much debased, if they should of his vassall make their head and Emperour: wherewith the emperour not a little moued, and afterwards at the battell of Paue hauing taken him prisoner, would neuer consent vnto his deliuerance, vntill hee had quite

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The wearing of a cap was in auncient time the marke of them that were but lately made free, to cover their heads that were shaven when they were slaues.

discharged the Low countries from the fealtie and homage wherein they were before bound vnto the French. **F**

But it seemeth that it is not enough to say, that *Charles* of Austria was vassall vnto the crowne of Fraunce, but that he was thereunto a liegeman also; and not onely a liegeman, but euen the French kings naturall subiect; as borne & brought vp in Flanders, then a prouince of the French kingdom: although many think the citie of Gaunt the natie place of *Charles*, and the cities vpon the sea coast to haue bene excepted. For the earles of Flaunders were alwaies accounted peers of Fraunce, euen from the first beginning of that kingdome: and the foueraigne roialties thereof, alwaies before referred vnto the same, but especiallie at the solemne treatie of Arras betwixt *Charles* the seuenth and *Philip* the second duke of Burgundie. Also *Charles* the fift beeing chosen emperour, asked leaue of *Francis* the French king, that hee might leue of his subiects the subsidie graunted him at Arras, in the yeate 1520; whereunto the kings aunswere was, That he would therein do what he might, without diminishing in any thing the right of his crowne: as I haue seene by the instructions giuen to *M. De la Roche-Gaucourt* at such time as hee was sent ambassadour into Spaine. Although that greater causes might haue bene alleaged, which might haue stayed German princes from the election of *Charles* the fift. For *Charles* of Austria was as then not onely the vassall, liegeman, and naturall subiect to the king of Fraunce, but also a liegeman vnto the pope and the church of Rome, for all the countries, lands, and seignories that he then held, except that which he held of the crowne of Fraunce, or of the empire; howbeit that he as then held nothing of the empire, but the lands neere vnto the Rhene, and Cambray: For *Arnold* the last of that name, countie of Burgundie, gaue it with the other countries to the emperor *Conrade* the second, in the yeare 1205, and after that, the emperor *Charles* the fourth gaue it to *Charles* the sixt, the Dolphin, by fealtie and homage, as appeareth by the inuestiture thereof in the treasure of Fraunce, the copie whereof we haue out of the records. But at such time as he professed himselfe to be the liegeman of the bishop of Rome, in his fealtie giuen for the kingdome of Naples, he then promised by his oath, not to take vpon him either the charge of the German empire, if he were chosen emperor by the German princes; either of the dukedome of Milan; and with these conditions gaue his fealtie and homage vnto the pope: which is not to be thought any new clause, but an auntient condition, ioyned vnto all the acts of fealtie and homage giuen vnto the pope by the kings of Naples and Sicilie, since the time that pope *Vrbane* the fift, therein inuested *Charles* of France brother vnto king *Lewes*. And in the inuestiture of that kingdome, made by *Innocent* the fourth, vnto *Edmond* the sonne of *Henrie* king of England, in the yeare 1255, the copie whereof we haue written out of the Vatican records, are these words, *Ego Henricus, Dei gratia Rex Anglie, nomine Edmundi filij nostri Regis Sicilia, plenum & ligum vassallagium facio ecclesie Romana. viz.* I *Henrie*, by the grace of God king of England, in the name of *Edmund* our sonne, king of Sicilie, yeeld full and liege homage vnto the church of Rome, &c. And in the act of fealtie and liege homage giuen by *Robert* king of Sicilie, in the 1338, he by oath promised neuer to receiue the imperiall crowne, neither the dukedome of Milan, nor any seignorie whatsoever in Tuscanie, vpon paine of the losse of all such right as he might pretend vnto the kingdomes of Naples and Sicilie. The like is also found giuen by *Charles* king of Naples, in the yeare 1295: and by queene *Jone* in the yeare 1348, as I haue read in the register of the Vatican. And for this onely cause pope *Iulius* the second refused to inuest *Ferdinand* king of Arragon, *Charles* the fift the emperours grandfather by the mothers side, in the kingdome of Naples, but vpon the conditions I haue aforesaid: and a yearely

rent

*Charles the fift
a naturall
subiect of these
French Kings:*

*Charles the fift
vassall and
liegeman
vnto the pope
and the Church
of Rome.*

*The kingdome
of Naples and
Sicilie holden of
the pope.*

- A** rent of eight thousand ounces of gold, or of foure score thousand crownes, which the kings of Naples were bound to pay euerie yeare, and a white ambling gelding, beside the aid expresse in the inuesture, with reservation of the countie of Beneuent. Which their obligation was of such consequence vnto the popes, that so soone as they denounced warre vnto any, the kings of Naples were straight wayes in armes for the defence of the Church of Rome. So *Alphonsus* king of Naples, at the denuntiation of pope *Sextus*, made warre vpon the state of Florence, for that they had hanged the Cardinall of Pisa, the popes Legat *a latere* in his pontificalibus. And in our time pope *Paulus* the third by his Ambassadour *Alexander Farnesius*, summoned the emperor *Charles* the fift, being then with a great armie in France, to make peace with the French king, so with their vniited forces to make warre vpon the Protestant princes, as was agreed vpon in the first article of the treatie of Soissons, made in September in the yere 1544: which haply the emperor would not haue done (hauing had his armie but a little before by the French men ouerthrowne in Italie, and now with doubtfull euent making warre in Fraunce) if he had not bene liege vassall vnto the pope, & by him threatened to loose the kingdoms of Naples and Sicilie, as he was well giuen to vnderstand. Which the pope did, not so much moued with the publike calamitie or troubled estate of the Church, as with the power of *Charles*, wherewith he was like to haue subdued most part of Europe; had hee not bene letted by the armes and power of the French. And albeit that in the yere 1528, by the treatie made betwixt pope *Clement* the vij and his Cardinals, besieged in the castle S. Angelo on the one side, and the emperor *Charles* the fift on the other, it was set downe, That the kings of Naples should for euer be acquitted of the yerely rent of 8000 ounces of gold, and of all the arearages, which amounted vnto great summes: yet so it was, that all the rest of the pointes of the auntient inuestiture, still stood in their former force and vertue. But euer since, the German emperours haue well knowne, and the pope better, (seeing Rome sacked, and himselfe put to rancome of 400000 duckets, after he had released the fairest rights of *S. Peters* demaine) what daunger it was to make choice of the vassall of a soueraigne prince, and the natural subiect of another, to be head of the Empire: For with the forces of Germanie he brought downe the pope, and with the popes power hee ruinated the princes of Germanie. And albeit that by the imperiall title hee held the duchies of Milan, of Gelders, and other seignories of the empire, yet so it is, that hee was the popes auntient vassall & liege man, and so consequently to him first bound, & that more straitly vnto the Church than to the empire. Toine hereunto also, that the popes haue since this 300 yeres pretended that the emperor may not take vpon him the empire, but hauing before of them receiued the imperiall crowne; as pope *Pius* the fift by his Legats sharply rebuked the emperor *Ferdinand*, for that he had not of him receiued the imperiall crowne, which his brother *Charles* had not before doubted so to receiue; and had by excommunication compelled him so to doe, had hee not by the intreatie of king *Philip* his kinsman, and of the French king, otherwise appeased.
- E** But here some man will say, How could it be that the emperor *Charles* the fift, should be liege man vnto the pope, the French king, and the empire? seeing that no man can be liege man vnto many lords, although he haue many fees holden of them all separately: For his faith and aid is due to one alone, and him the first and chiefest, without exception of any man liuing. And in case he be the vassall of many colheires for one and the same fee, he is liegeman vnto them all together, but not to any of them separately, considering that his fealtie cannot be diuided; neither can he do his liege homage vnto one of them without exception, for the concurrence of the rest: yet truer it is, his fealtie to be due vnto one onely of his patrons, whome he shall make choice of, if that

The ounce is
worth ten
crownes

Pius Quintus
the pope angrie
with *Ferdinand*
the emperor
for not receiuing
of him the im-
periall crowne.

The same man
cannot be
liegeman to
diuers princeas.

his patrons cannot agree, or els to them altogether; and that law we now vse. For the condition of the vassall ought not to be made more hard, than if there were vnto one man, but one heire; but it should be much harder if he should bee enforced to doe many duties, many seruices, and many times to giue his faith: and that much more the liege vassall, who cannot giue vnto manie his faith seuerally, without exception. F

I here vnderstand the liege homage properly as it is to bee vnderstood in the lawes of Fees; for that our auncestors haue abused this word *Liege*, in all their auntient treaties of alliance and oathes that they made: I remember that I haue seene 48 treaties of alliance, which our kings *Philip* the v, and *Charles* the v. vj. vij. and *Lewes* the xj, made with the three electors on this side the Rhine, and diuers other the princes of the empire, wherein they by oath sworne betwixt the hands of the kings deputies, solemnly promised to serue them in their warres against all men, except the emperour, and the king of the Romans; vowing to be their vassals and liege men, more or lesse; some calling themselves counsellours, some other pensioners, all liege vassals: except the Archbishop of Treuers, Elector of the empire, who no otherwise called himselfe, but the kings confederat, and not his vassall, although he receiued his pension from the king, as did the other princes; who for all this held nothing of the crowne of France, but were nothing but pensioners vnto the French kings, to whome they gaue their oath to aid them, at their charge, vpon the conditions expressed in their oathes. Onely the oath of the duke of Guelders, and countie of Iuliers, I will for example set downe, that thereby men may iudge of the rest, in Latine conceiued in these words, *Ego deuenio vassallus ligius Caroli Regis Francorum, pro ratione quinquaginta millium scutorum auri, ante festum D. Rhemigij mihi soluendorum, &c. vii.* I become liege vassall of *Charles* the French king, for the summe of fiftie thousand crownes of gold, to be paid vnto mee before the feast of *S. Rhemigius*, &c. This oath bore date in Iune, in the yeare 1401. Yea, euen betwixt kings themselves leagues were oftentimes conceiued in such words, as that the one of them professed himselfe to be the others vassall. As in the league made betwixt *Philip* of Valois the French king, and *Alphonfus* king of Castile, in the yeare 1336, it is said, *That they should giue and receiue fealtie and homage the one of the other:* which proceeding but of the ignorance of their ambassadours, is now better vnderstood, as but an abuse of the words *Vassall* and *Liege*: the oathes also of the kings pensioners, and their treaties, carrie no more such words. G
H
I

Wherefore againe to returne from whence we haue a little digressed. I say then, that the emperour *Charles* the fift could not yeeld his liege fealtie and homage vnto the pope without exception, considering that he was liege man, peere, and naturall subiect vnto the French king, and that the seruice and homage is inseparable from the person. And admit he were not the kings subiect, but his liege man, or not his liege man but his vassall onely; yet so it is, that in tearmes of right the liege homage is due vnto the most auntient, and that the vassall ought to serue his most auntient Lord. But if the lords be equall, and yet at variance amongst themselves for the seruice, hee oweth aid neither to the one nor to the other: For that in matter of seruices or seruitude, the seruice (for the indiuisible nature therof) is letted by the concurrence of them to whom it is to be done. For amongst equals the condition of him which forbiddeth (the seruice) is better: howbeit that in question of simple alliance, the aid is due vnto him that is wronged and inuaded in his countrey against the other common allie which maketh warre vpon him, as it commonly falleth out if the assailant haue no iust cause, and that after denuntiation to him giuen by the common allies to come to some reasonable agreement, he refuse so to doe. K

But most certaine it is, that the naturall subiect ought alwayes to preferre his naturall

The vassall
ought first to
serue his most
auntient Lord

All lord aboue all, if he bee present, as him to whome he is first bound, & from whom he cannot exempt himselfe. And therefore in the decrees of king *Lewes* the eleuenth, and of *Philip* the second, duke of Burgundie, made for the order of Fraunce, the xiiij article, and for the order of the golden Fleece, the ix article, it is set downe, That the knights of what prince soeuer it be, ought to aid their naturall lord, whose liege men they are, and the countrey wherein they were borne, against him that shall make war vpon them, without any blemish to their honour; provided that their naturall lord be there in person, and not otherwise, and that they signifie so much vnto the chiefe of the order whereof they are knights. Whereby it appeareth that the emperour *Charles* the fift could not giue his faith vnto the electors of the empire, but with reseruatiō of his fealtie vnto the French king, and afterward vnto the Pope. For beside the kingdome of Naples and Sicilie, holding of the pope immediatly and without meane, hee was also his vassall and liege man for the kingdome of Arragon, as I haue red in the records taken out of the Vatican. where the graunt giuen by *Peter* king of Arragon is set downe in these words, *Ego Petrus Dei gratia Rex Arragonum, Comes Barcinone, Dominus Montispeſulani, cupiens præter Deum, principali beati Petri, & Apostolicæ sedis protectione muniri, tibi reuerendissime pater, & Domine summe Pontifex Innocenti, & pro te, sacrosanctæ Romanæ Ecclesiæ, & Apostolicæ sedis, offero regnum meum: illudque tibi pro remedio animæ meæ primogenitorum meorum constituo censuale, vt annuatim de Camera Regis ducenta quinquaginta Massimitina Apostolicæ sedis reddantur: & ego ac successores mei, specialiter & fideles & obnoxii teneamur: hac autem lege perpetua seruandum forum decerno, quia spero & confido, quod tu & successores tui, quali beati, Petri manibus in regem duxeris solemniter coronandum. Actum Romæ anno Christi 1204.* In English thus: I *Peter* by the grace of God king of Arragon, Countie of Barcelona, Lord of Montpelier, desiring next vnto God to be strengthened with the principall protection of blessed *S. Peter* and the Apostolicall See; do offer vnto thee most reuerent father and high Lord, Pope *Innocent*, and for thee vnto the most holy Church of Rome, and to the Apostolicall See, my kingdome; and the same for the health of my soule and of my predecessours, I make vnto thee tributarie, so that out of the kings chamber shall be yerely paid vnto the Apostolicall See, two hundred & fifty Massimitines, & that I and my successors shall be especially bound to be (vnto you) faithfull and subiect; and by this perpetuall law decree a court to be kept: for that my hope and truit is, that thou & thy successors shalt lead vs as it were with the hands of blessed *Peter*, to be solemnly crowned king. Enacted at Rome in the yeare of Christ 1204. So that kingdome of Arragon was by the Arragonian kings offered vnto the Bishops of Rome, least they should for their enormities and murders haue bene well beaten. But the kingdomes of Sardinia and Corsica, was by the popes giuen vnto the kings of Arragon (as the popes guise is boundfull to giue that is none of their owne) for which kingdome the Emperour was also liege man vnto the Pope, as I haue seene by the inuestiture thereof made vnto *Peter* the third, king of Arragon, in this sort, *Pontifex Max. de fratrum suorum assensus, dat in feudum regnum Sardinie & Corsicæ, proprietatē ecclesiæ Romanæ &c. Per capam Auream te presentialiter inuestimus, &c. Ita tamen quod tu & successores tui, præstabis homagium ligium, vassallagium plenum, & fidelitatis iuramentum, &c. Et centū equites armatos, & uno equo ad arma, & duobus equitaturis ad minus per quēlibet, & quintagētis peditibus terræ vestræ de Arragonia, cum gagijs per trimestre a die quo intrabit terrā Ecclesiæ, &c. Et in super censum duorū millīū marcarū argenti bonorum, & legalīū strelīngorū: ubicūq; fuerit Romanus Pontifex in festo beatorum Petri & Pauli, annis singulis, sub pena excommunicationis post quatuor menses, &c. & post tertium terminum non solueris, tu heredesq; tui, a dicto regno Sardinie & Corsicæ cadetis ex toto, & regnum ad Ro-*

The act of the oath of the king of Arragon giue to the pope.

The inuestiture of the kingdomes of Sardinia and Corsica granted by the pope.

manam ecklesiam reuertetur. viz. The great bishop by the assent of his bretheren, doth giue in fee the kingdome of Sardinia and Corsica, the inheritance of the church of Rome, &c. And we personally therein, inuest thee by a cape of gold, &c. yet so as that thou and thy successours shall therefore giue liege homage, full vassalage, and oath of fidelitie, &c. And an hundred armed horse-men, and one horse for seruice, and two furnitures at the least for euery one, and fise hundred foote-men of your country of Aragon, with pay for three moneths from the day that they shall enter into the territorie of the church, &c. And moreouer the rent of two thousand markes of good and lawfull sterling money, wheresoeuer the pope shall be in the feast of the blessed Apostles, *Peter and Paul*, euerie yeare, vpon paine of excommunication after foure moneths, &c. and if after the third time thou shalt not pay it, thou and thy heires from the said kingdome of Sardinia and Corsica, shall altogether fall; and the same kingdome shall againe retorne vnto the church of Rome. And after that, *James* king of Aragon, did also like homage at Valence, betwixt the hands of the popes legate, in the yeare 1353, with reseruatiō vnto the pope of appeales; put in by the clergie, and abolishing of the lawes and customes brought in by the kings of that country. I finde also that *Ferdinand*, and after him *Alphonfus*, kings of Aragon, did the like fealtie and homage in the yeare 1455. And in the publike records of the court of Rome, are to be seene the names of the vassall kings set downe in this order: the kings of Naples, Sicilia, Aragon, Sardinia, Hierusalem, England, Ireland, and Hungary. And this is the old description of such princes as 380 yeres ago, yeelded their fealtie & homage vnto the bishops of Rome. And since the kingdom of Portugall, was by the valour of *Henry of Benonia*, taken from the Moores, the kings thereof made themselues vassalls vnto the bishop of Rome, and payd the yearely tribute of two thousand duckats into the bishop of Rome his treasure. And therefore *Innocent* the fourth, bishop of Rome, by his letters admonished the princes of the kingdom of Portugall, to appoint ouerseers to their prodigall king, who should also take vpon them the gouernement of the kingdome. And as for the Islands of the *Canaries*, *Nigaries*; and the *Gorgonides*; the emperor holdeth them also of the pope. We also reade; that *Lewes* king of Spaine, did fealtie and homage vnto the pope, in the yeare 1343, with charge to pay yearely into the chamber of Rome, foure hundred florines of the weight and coine of Florence. And as for the remainder of the westernne Isles, and of Peru, it is certaine that pope *Alexander* the sixt, diuiding the new world betwixt the kinges of Castile and Portugall, expresly kept vnto himsele the inheritance, the iurisdiction and souerainetie thereof, by consent of the two kings; who from that time made themselues his vassalls, of all the purchases and conquests by them already gained, and that they should from that time forward, gaine or make, as the Spaniards themselues haue written. In like manner pope *Iulius* the second, gaue vnto *Ferdinand*, king of Spaine, *Charles* the fift, his grandfather by the mothers side, the kingdomes of *Granado* and *Nauarre*; when he had driuen the Moores out of the one, and *Peter D' Albret* out of the other, vpon condition to hold them by fealty and homage of the church of Rome. For albeit that *Charles* the fift, the emperor pretended right vnto the kingdome of *Nauarre*, by reason of the donation to him made by *Germaine D' Foix*, second wife vnto king *Ferdinande*: yet so it was, that his ambassadours and deputies, when they came to the conference, seeing that their donation to want sure foundation, doubted not to pretend the popes interdictions, as the surest stay of their most vniust rapines. And the cause of the interdiction was, for that *Peter Albret*, king of *Nauarre*, would not at the command of pope *Iulius* the second, breake faith and friendship with *Lewes* the xij, the French king, who was first called father of his country, when as hee

The kingdom of
Portugall holden
of the pope.

The islands of
the Canaries,
holden of the
pope.

A was king *Lewes* his liege vassall, and no way bound vnto the pope. So that there remained no kingdome, no not any little territorie or peece of ground, which *Charles* the emperour held not by fealtie and homage, or whereof he could call himselfe a so-
I ueraigne. For as for the Islands of Maiorca and Minorca, they were long time before reunited vnto the kingdome of Aragon, after that they were taken from the heires of *James* the Fortunate. And in the Low-countries, he had nothing which was not of necessity holden of the crowne of France, or of the empire. And albeit that our princes haue by diuers leagues, granted the principalitie of Flanders and Artoise vnto *Charles* the emperour, yet remaineth there a country in Burgundie, which they call the countie of Charrolois, the proprietie whereof belongeth vnto the king of Spaine, but the
E soueraignetie thereof vnto the French king, and is by the king of Spaine holden in fealty: so that euen for that, he is to acknowledge himselfe to be our kings vassall. As for the kingdome of Castile, no man doubteth (which hath but looked into the Spanish affaires) but that the kingdome of Castile by inheritance, descended vnto king *Lewes* the ix. of France, in the right of *Blanch* his mother: yea, and the nobilitie of Castile by
C solemne acts, which are yet extant in the records of France, inuited king *Lewes* to haue taken vpon him his mothers kingdome. Howbeit I doubt not, but that the Spaniards will reply, that *Blanch*, the daughter of *Lewes* the ix. married the king of Castile, vpon condition that all such right vnto the kingdome, as might haue fallen vnto her father, should now be given vnto his sonne in law: which thing *Lewes* could not doe vnto
D the preiudice of his successours, without the consent of the states: ioyning therevnto also that the French kings daughters or sisters, when they are bestowed and married, can receiue nothing but money of the royall possessions of the crowne of France. And albeit that some may thinke that the French king might giue those lands vnto his daughter, as not yet vniued or incorporate into the crowne of France; yet neuertheless there is yet extant in the records of France, a league made in the yeare 1369, betwixt king *Charles* the fift and *Henry* king of Castile, then driuen out of his kingdome, whereby I haue seene, that *Henry* promised as well for himselfe, as for his successours, to become vassall, and to hold his kingdome of Castile, of the kings of Fraunce: for that by the meanes of the king of France, he was againe restored into his kingdome.
E Seeing then that the kingdome of Castile is hereditarie descending vnto the heires both males and females, the successours of *Henry* are bound vnto his deedes and promises. True it is, that the promise of *Henry* had not power to preiudice his successours, neither the estates of Castile, without the consent of whom, the treatie was made, if the realme of Castile had not bene hereditarie. But of the kingdome of Fraunce, it is otherwise to be thought and determined. And therefore it was by the wise resolved, that *Phillip* the Faire, the French king, could not make *Arthur* duke of Britaine, vassall vnto the king of England, without the dukes consent; except he would by the same right, giue vp his kingdome of France vnto the king of England, which he could by no soueraigne power doe, without the consent of the estates of France. For otherwise,
his yeelding of it vp, should be to none effect or purpose, no more then that of king *Iohn* of Fraunce, made vnto the king of England in the treatie at Calais, wherein he without consent of the states, yeelded vnto the king of England, all the right and ritle he had in the kingdome of France: which was againe disanulled by the treatie of *Charles*, whereby the king of England refused that right giuen vnto him by such yeelding vp. The same is to be thought of the league of Tricasse, wherein *Charles* the sixt, without the consent of the states, yeelded the kingdome of France vnto *Henry* the fift, king of England. And therefore pope *Martine* could by no request of the English, be persuaded to ratifie that league, but called *Charles* the seauenth, sonne to *Charles* the sixt;

The maiestie of Charles the fift impugned by this French author.

Title pretended by the French vnto the kingdome of Castile.

The author haply is in this partiall, or is mistaken.

by the name of the French king : for that the kingdome of Fraunce is neither deuolued by right of succession, (which they tearme from one intestate,) neither by testament, neither by resignation, but by vertue of the law royall, from which the kings themselues cannot derogat without the consent of the estates; which is not so in the kingdomes of Spaine, England, Scotland, Naples, and Nauarre.

But cannot the imperiall title (may some man haply say) make him a soueraigne which is another mans vassall? As the prince or the people making a slaue a magistrat seemeth thereby to haue also enfranchised him; whereof there is no doubt, if he be the princes or the peoples slaue; for otherwise it is not lawfull either for the prince, or for the people, to dispose of another mans seruant: so neither haue the German princes any power ouer other mens citisens or subiects, such as was *Charles* the first. Ioyne hereunto also, that the imperiall title of the emperour carrieth with it no soueraigntie: albeit that the emperour writing vnto the princes of the empire, vse these wordes, *Wee command you, &c. You shall do this, &c.* which other princes do not toward their own subiects: yea and that more is, that the princes electors carrie the titles of Butlers, Esquiers, and Talters to the emperour, yet the soueraigntie of the empire resteth not in the person of the emperour, but in the assemblie of the states of the empire, who are able to giue law vnto the emperour, and to euerie prince of the empire in particular, in such sort as that the emperour hath not power to make any particular edict, neither peace nor warre, neither to charge the subiects of the empire so much as with one impost, nor to call or dismisle the diets of the empire, without the consent of the princes. And that is it for which the emperour *Maximilian* the first, at the diet of Constance, holden in the yeare 1507, said vnto the estates (the popes legat then vrging that the imperiall crowne was both to be requested and receiued of the pope,) That to take the imperiall crowne, of the pope was but a needlesse ceremonie, seruing to no purpose; considering that the imperiall authoritie and power depended of the estates of the empire: which in due place we will more particularly declare.

Whereby a man may easily iudge, that there are few or none absolute soueraigne princes. For the Venetian Commonweale excepted, there are no princes or Commonweals in Italie, which hold not of the empire, the pope, or the crowne of Fraunce: which concerning the kingdome of Sicilie and Naples, we haue already declared. As for the duke of Milan he is a naturall vassall of the empire, from which hee taketh his inuestiture, and thereto payeth reliefe: for which the emperour *Maximilian* the first, in lesse than xv, or xvj yeares space, drue thence vnto himselfe, about three hundred thousand pounds: For king *Lewes* the twelfth at one time paid therfore an hundred thousand pounds: and the *Sforces* had it no better cheape. For they which are now called dukes of Milan, in the remembrance of our auncestors, that is to say about an hundred and fiftie yeares agoe, were called but lieutenants, and the citie it selfe but the ordinarie chamber of the empire. And so namely *Iohn Galeace* the second, and *Barnabas* his brother, in the inuestiture which they had from the emperour *Charles* the fourth, are simply called lieutenants of the empire. And *Galeace* the first being accused for charging the subiects with subsidies, without the emperours leaue, was by a decree from the emperour sent prisoner vnto the castle of Modene; where after he had of long time liued, he at length died; whose sonne *Actius* being by the emperour *Lewes* of Bauiere put into his fathers place, for the summe of an hundred thousand crownes, obtained of him the first title of a prince, in the yeare 1338. And after that, *Galeace* the third, father in law to *Lewes* duke of Orleans, payed vnto the emperour *Fredericke* the third, an hundred thousand florines, for the honour and title of a duke, in the yeare one thousand three hundred ninctie seuen.

The emperour
no absolute so-
ueraigne.

No prince in I-
talie which hol-
deth not of the
pope, or of the
empire.
The duke of
Milan.

- A So say we also of the duke of Mantua, who acknowledgeth himselfe to hold of the Germaine empire, and to be also a prince thereof. *The duke of Mantua.*
- As for the duke of Ferrara he confesseth euen at this present to hold part of his seignorie, euen Ferrara it selfe, of the pope, and therefore payeth a yearely rent or fee into the popes coffers. For not long ago, viz. in the yeare 1372, the marques of Este was by pope *Gregory* first established his lieutenant in the city of Ferrara, reseruing vnto the church fealtie and homage, iurisdiction and soueraigntie; with condition also, that he should yearely pay ten thousand florens of gold into the chamber of *S. Peter*, and to find an hundred men at armes paid for three monethes, for the defence of the Church of Rome, so often as need should require, as I haue learned out of the Vatican records.
- B And as for Rhegium and Modene, he acknowledgeth him to hold them of the empire: albeit that pope *Iulius* the second maintained them to be the Church fees, and in that quarrell made warres vpon the Ferrariens and the French king, who gaue them aide: as also to haue the entire reuenue of the fee, beeing before diminished by pope *Alexander* the sixt, in marrying his base daughter *Lucrece* vnto the duke *Alphonsus*. And true it is, that the French kings long since tooke vpon them the defence and patronage of the prince of Ferrara, since the time that *Borsus*, first duke of Ferrara, acknowledged himselfe liege vassall vnto *Charles* the sixt, and therefore it was vnto him permitted, that those dukes of Ferrara might beare the armes of Fraunce, the publike acts whereof yet remaine in the records of Fraunce.
- C As concerning the Florentines, they of long time haue pretended libertie against the empire, for the payment of fixe thousand Florines vnto the emperour *Rodolphe*. As also do the Genowayes, who as they say, were by the same emperour enfranchised. How be it that afterwards they hauing receiued great harme from the Venetians, gaue themselves into protection vnto king *Charles* the sixt, the French king: and not long after vnto the duke of Milan, who receiued them vpon condition that they should therefore do fealtie and homage vnto the French kings. *The Florentines*
The Genowayes.
- In like case they of Luca paid vnto the emperour *Henrie* the fift, twelue thousand Florines to be enfranchised; Sienna ten thousand; And *Peter Gambecourt* payed twelue thousand vnto the emperour *Charles* the fourth for the seignorie of Pisa.
- D But these were not true alienations, nor exemptions from subiection; but rather simple graunts and gifts, with certaine priueleges to gouerne their estate, vnder the obedience of the empire. It was not also in the power of the emperours, neither of any prince whatsoeuer, to alienate any thing of the publike demaine, and much lesse of the rights of the soueraigne maiestie, but that it was alwayes in the power of the successour to lay hand thereon againe, as it is lawfull for the lord to lay hold vpon his fugitiue slaue. As the emperour *Maximilian*, hauing thrust his armie into Italie, with the power of king *Lewes* the xij, and hauing brought a great feare vpon all the cities of Italie, gaue them well to vnderstand: At which time the Florentines sent their ambassadors vnto him, to yeeld vnto him fealtie and homage for their estate, and to obtaine of him the confirmation of their priueleges, which cost them fortie thousand ducats. And albeit that *Cosmus* duke of Florence, by force of armes made himselfe lord of Sienna: yet so it was, that he tooke the inuestiture therof, & yeelded therefore fealtie & homage vnto the king of Spaine, as perpetuall lieutenant of the empire. Which is sufficient reason to show, that they of Sienna were not before enfranchised or exempted from the empire; or if they were, why did then pope *Iulius* the second pay thirtie thousand ducats to *Maximilian* the emperour, to redeeme of him the libertie of Sienna, to the intent to inuest therein * the duke of Vrbin. And yet neuerthelesse all that letted * *Guichardin.*
- E not, but that the duke of Florence, which had conquered it by force of armes, was constrained

constrained to take the inuestiture thereof of the king of Spaine, and to pay therefore fixe hundred thousand crownes, which afterwards the king of Spaine would haue againe repayed vnto the duke of Florence, to haue restored Sienna into the former estate; which he would not do, being enformed that the king of Spayne would haue giuen it to the duke of Parma, to reunite Placence and Parma vnto the duchie of Milan, from whence they had bene before distracted. And how then could the German emperours, which are subiects vnto the estates of the empire, alienat the demaine and rights of soueraigntie, in giuing the rights of soueraigntie vnto the cities of Italie, or libertie vnto the tributarie people; seeing that the absolute soueraigne prince cannot so do? no not so much as to distract one clod of the publike land, much lesse to giue away the proprietie. For kings and other great princes (to say truely) haue not the proprietie of the publike demaines, nay not so much as the whole vse and profit: for that contenting themselues with the bare vse, the rest belongeth vnto the common-weale. And for that cause the Emperour *Charles* the fourth, granting the confirmation of the priuileges to them of Perouze, ioyned thereunto this clause, *Quoad viveret*: So long as he should liue. And yet for all that pope *Iulius* the second tooke that towne from the Baillions, and put it vnder the obeysance of the Church, from whence it was said to haue bene taken. And how could the cities of Italie, or duke of Florence, haue any absolute soueraigntie; seeing that for all differences and controuersies concerning their estates, frontiers, demaines, and tenures, they plead the same before the emperour, or at least wise in the imperiall chamber, where their causes are decided, and they enforced to doe as is there adiudged. And albeit that they of Genes, who seemed to hold lesse of the empire than any one of the other townes of Italie, where by the marques of Finall (whome they had driuen out of his estate) summoned before the emperour *Maximilian* the second, in the yeare 1559: and that they would receiue the emperour as an arbitratour, and not as a iudge or a superiour: yet so it was; that the emperour taking vpon him the authoritie of a iudge, caused them before warned, to be summoned, and when that after many peremptorie edicts they made not their appearance, he pronounced sentence against them, and by an herault at armes threatened to proscrib the territorie of Genes if they obeyed not his censure. Now most certaine it is, that there is none but the cities and townes which hold of the empire, that can be proscribed by the imperiall proscription, whether it be by sentence of the emperour, or by decree of the imperiall chamber. For the imperiall chamber could not haue proscribed Minde, Munster, Magdeburg, and others, had they not bene contained within the bounds and power of the German empire: much lesse could the emperour haue proscribed Genes, if it had not bene within the power of the Germans. And therefore when they of Genes had appealed from the interlocutorie sentence of *Maximilian* vnto the pope, they afterwards renouncing their appeale, yeelded to the sentence, acknowledging the iurisdiction and soueraigntie of the empire. And so at length the emperour gaue sentence for the marques, acknowledging himselfe to be a vassal vnto the German empire, whome they of Genes would haue had to haue bene theirs. And since that the marques hath by that definitiue sentence bene maintained in possession of his marquisat, as I haue seene by the letters of Signior *D'la Forest*, embassadour for the king, dated at Vienna the xviij of Iuly, in the yeare 1560: which iudgement the emperour gaue after he had seene the opinions of the lawyers of foure vniuersities. And not long after they were by another sentence of the same emperours, giuen in the moneth of Iuly, in the yeare one thousand five hundred sixtie foure, condemned in a proceffe which they had against *Anthonye Flisque*, by them banished, who ouerthrew them by an appeale made vnto the emperour.

That princes
haue not the
proprietie of the
publike demaine
but onely the
bare vse.

Genes threat-
ned by Maxi-
milian the Em-
peror.

Which

A Which things although they bee so plaine as that there ought thereof to bee no doubt, but that the cities of Italie on this side the riuers Rubicon and Tiber, excepting some few, are contained within the bounds of the German empire, & so haue of themselves no soueraigntie; yet is the same made more euident by the generall consent of all the lawyers of Italie, who deny it to be lawfull for any cities of Italie to make any lawes or customes, contrarie or derogatorie to the Roman lawes, published by the commandement of the emperour *Frederick*. And that the cities of Italie either had no right of soueraigntie at all, or else renounced the same, it is manifest by that league which was made in the cite of Constance; for in that league among such priueleges as are confirmed vnto the cities of Italie, the rights of soueraignty are expressly excepted. And

B therfore *Alexander Imolensis* of all the lawyers of his time the most skilful, saith, A certaine iurisdiction to be thereby giuen vnto the cities of Italie; but not the rights of maiestie or soueraigntie to be therefore vnto them graunted, and that euen for that reason, for that the cities doubting or disagreeing about their right, the emperours were wont to appoint them iudges and commissioners for the deciding of their controuersies.

Much lesse therefore may the imperiall townes and cities contained within the bounds of the German empire, pretend themselves to haue any soueraigntie, albeit that we see certaine of them to boast of a certaine show of libertie, which they of old receiued from the emperors; as Nuremberg from the emperour *Fredericke* the first; Isne from *Otho* the third; Egge from *Lewes* of Bauiere: yea and some of them there

C were, which not able longer to endure the hard bondage of their lords, princes of the empire, set themselves at libertie, as did the cities of Vlme, Brunsuic, Lubec, and others: but that which they call libertie, is but an old vacation from certaine seruices, and an immunitie from customes and tributes graunted by the emperours, without any impeachment to their maiestie. And therefore those cities which I haue spoken of, honour the maiestie of the German empire, receiue from it lawes, obey the magistrats thereof, accept of the decrees of the imperiall chamber, and of the assemblies of the empire: and not onely publique and priuat iudgements of princes and cities among themselves, but also the priuat iudgements of particular men are decided by the imperiall chamber, if appellation be made from the sentence which exceedeth the summe of fiftie crowns. Seeing therefore that the imperiall chamber may of the power of it selfe

D confirme or disanull the iudgements of princes or cities, it must needs follow, that neither those princes nor cities haue the power of soueraigne maiestie: For as a certaine Poet (I know not who) saith,

Rescindere nunquam Djs licet acta Deum.

It is not lawfull for the Gods the acts of Gods to vndoe.

As for the Swissers Commonweals, we said before, them to haue bene rent from the German empire, as oppressed with the tirannic of their gouernours: and yet they so honour and reuerence the maiestie of the German empire, as that they in generall requested of the emperour *Ferdinand*, to haue the libertie of their priueleges vnto them confirmed: which is a certaine forme of auncient fealtie, and acknowledgement that they hold their libertie of the empire. And albeit that some there be on this side the Rhene, which vaunt themselves to haue soueraigne power ouer their subiects, yet must they needs be the subiects and vassals either of our kings, or of the German empire. For there is no man which knoweth not (if he remember the antiquitie of the French) that all the countrey of Loraine, and the realme of Arles, after the death of the three children of *Lothaire* were diuided betwixt the emperour *Charles* the Bauld of Fraunce, and

The imperial townes and cities subject vnto appeales made vnto the imperial chamber

The Swissers Commonweals to be subiect either to the Empire or the king of France.

and *Lewes* king of Germanie his brother. As *Vitald*, *Floard*, and *Lambert* the best antiquaries do in their histories at large declare. Now so it is that the vassall can neuer prescribe for his homage towards his lord, nor the subiect against the iurisdiction of his prince; and that the graunts and sufferances of the emperour, and the kings of France could not preiudice either the crowne or the empire: wherefore we must conclude these possessours of this maiestie by sufference, to bee subiects and vassals either vnto our kings, or to the German empire.

*The Duke of
Lorraine no
absolute Soue-
raigne, but
vassall of the
German empire.*

And albeit that many thinke the duke of *Lorraine* to be an absolute soueraigne, by reason of the Armes that he beareth, being an armed arme, saying, as it should seeme, That he holdeth nothing but of the sword: yet neuertheless so it is, that in his title he calleth himselfe a prince of the empire; which is indeed to acknowledge the imperiall maiestie. Ioyne thereunto also, that he hath vsually receiued judges from the imperiall chamber, and submitted himselfe to the iurisdiction thereof. For as for that that hee is the last among the German princes, nor in their ceremonies holdeth not the place of the auntient dukes of *Lorraine*; that is, for that he holdeth but a little, viz. scarce the sixt part of the auntient duchie of *Lorraine* (a prouince of the German empire) which containeth all that countrey which lyeth betwixt the riuer of the *Maze* and the *Rhene*. And therefore the dukes of *Brabant*, and the German emperours, called themselues dukes of *Lorraine*. So the emperour *Charles* the fourth, in the league which he made with *John* the French king, calleth himselfe duke of *Lorraine*. But this countrey which now is called *Lorraine*, is a part of the German empire, and the duke himselfe a vassall of the empire. For *Stephen* countie of *Boulongne*, was in that dukedome inuested by the emperour *Henrie* the first, and for that cause acknowledged himselfe a vassall of the empire, in the yeare 1019. And *Frederick* of *Lorraine* countie of *Vaudemont*, duke *Charles* being dead without heire male, before *Sigismund* the emperour and the fathers assembled at *Constance*, claimed that dukedome of right to belong vnto him, as next of kin; for that it was an imperiall fee, whereof *Isabel* duke *Charles* his heire, who had married *Renat* duke of *Anjou*, was not (as he said) capable: which *Renat* denied it not to be an imperiall fee, but shewed many such imperiall fees to haue descended vnto the daughters. And afterward the title comming to be tryed by the sword, *Renat* being ouerthrowne and taken prisoner by *Frederick*, could not be before deliuered, vntill that he had married his daughter *Yoland* vnto *Anthony* the sonne of *Frederick*, with condition, that if *Renat* died without heires male, the duchie of *Lorraine* should descend vnto the heires of *Frederick*, & so vnto the house of *Vaudemont*, as it is come to passe.

*The duchie of
Lorraine deuol-
ued vnto the
counties of
Vaudemont.*

Now if so it be that the dukedome of *Lorraine* be an imperiall fee, comprehended within the bounds of the German empire: neither the lord of *Lumès* nor the countie of *Aspremont*, who are contained within the precinct of *Lorraine*, can chalenge vnto themselues any right of soueraigntie, as they haue done, seeing that it is plaine by the law, that he which hath a limited territorie, hath but the same right ouer euerie one of his subiects which are within the compasse of his territorie, that hee hath ouer them all in generall; except it appeare, him by some speciall priuiledge to be free and from the generall expressly exempted. By which reason all such as pretend a soueraigntie, being enclosed within the bounds and territorie of another man, may bee thereof debarred: which a man cannot so easily iudge of them, which in the frontiers of kingdomes, take vpon them a kinde of soueraigne power; as do the fine lords or princes in the confines of *Burgundie*, whome both the free counties, and the dukes haue oftentimes chalenged for their vassals: and for the soueraigntie of whome, at such times as they had taken vp armes, they obtained of the generals of both parts, that in the meane time they beeing free might be as newters, vntill the cunct of the warre had decided the cause: and so at length

- A** length abusing the long possession of soueraigntie ; made of that their right, which they had but by sufferance, a perpetuities : but as we haue oftentimes before said, so we must hereafter oftentimes say, That neither the right of soueraigne maiestie, nor the right of libertie, can by the client or vassall be prescribed against : and much lesse if it be withholden by concealement or by sufferance. In like sort the countrey of Bearne, betwixt the confines of Fraunce and Nauarre, which the kings attourney generall in the court of Paris maintained to be a prouince holden of the crowne of Fraunce, and disallowed of the plea of the kings attourney of the parliament of Thoulouze, who had confessed it not to hold of the crowne, in the yeare 1505 ; which although it remaine vndecided, yet the king of Nauarre for all that by sufferance holdeth it in soueraigntie.
- B** In like case the principalitie of Dombes was maintained by *Lizet* the kings attourney, to hold in fee of the crowne of Fraunce, and that the duke of Sauoy had no power to giue it to the empire, vnder the colour of being the emperours lieutenant, which hee showed to be done in the most wofull times of the ciuill warre, when as the dukes of Orleans and Burgundie had drawne all the whole kingdome into parts, in the yeare 1398 : in like manner the princes of East Frizeland, and they which hold the territory betwixt England and Scotland, which they call the Barable ground : as also the abbot of Gosen, betwixt Metz and Pont a Mousson, who holdeth the abbey and twenty fiue villages, in title of soueraigntie, without acknowledging any superior lord whatsoever : as also the lords of Beauieu, willing to exempt themselues from the crowne of
- C** Fraunce, yelded themselues vnto the empire, and so by the duke of Sauoy, the emperours lieutenant, were receiued into the protection of the empire, from which they also by little and little exempted themselues, without acknowledging either duke, king, or emperour for their soueraigne.

The right soueraigntie and libertie not to be prescribed against.

As for the dukes of Sauoy, the Italian doctors with one common error haue holden them to haue absolute power and soueraigntie, and to haue so bene iudged by the decree of the parliament of Sauoy : a thing altogether contrarie vnto the office of a lieutenant and vassall. And also *Osazque* the first president of Piemont writeth, That the dukes of Sauoy haue obtained this power of the emperors, which they could not haue as lieutenants of the empire ; as *Felinus* the best interpreter of the law hath most

The Duchie of Sauoy to hold of the empire.

- D** truly written. For what can be more contrarie vnto soueraigne maiestie, than to profess ones selfe to be another mans deputie or officer, (for so the name of a lieutenant doth signifie) or from whom shouldst thou think thy selfe to haue the power of soueraigntie in that prouince wherein thou thy selfe bearest rule ? But euen the dukes of Sauoy themselues confesse, and all their histories declare, this prouince of the German empire which is now called Sauoy, to haue bene a fee of the same empire, erected into a countie (holden of the empire in fealty) by *Henry* the fifth, and afterwards into a duchie by the emperour *Sigismund*. And euident it is the dukes alwayes heretofore, and not long since duke *Charles* restored vnto his countrey, to haue yelded fealty and homage vnto the emperour : and two yeares after, viz. in the yeare 1561, to haue sent speciall
- E** letters of attourney vnto the countie *D'Arques* chiefe chamberlaine to the emperour, to obtaine for him of the emperour another inuestiture : for because that that which hee had before taken at *Ausburg*, seemed not vnto him in sufficient good forme, as I haue seene by the letters of *M. D'la Forest*, ambassadour for the king vnto the emperour. But an hard matter it was to make such a forme as should be vnto him good ; for that it seemeth that the title or qualitie of a perpetuall lieutenant, doth preiudice not only vnto soueraigntie, but also vnto the qualitie of a feudatarie & proprietarie in those lands which he holdeth of another man, if it bee not by a doubtfull or improper kind of speech.

The dukes of
Saxonia and the
county Palatine
lieutenants of
the empire.

Charles the sixt
of Fraunce by
the emperour
made perpetual
lieutenant of the
empire.

The soueraignty
of the king-
dome of Arles
bought of the
emperour by the
French king.

The dukes of Saxonia and the counties Palatine are also perpetuall lieutenants of the empire; but that is in the emperours absence, to doe iustice vnto the princes and imperiall townes, yea euen against the emperour himselfe, (as shall in due place bee declared) and to all them which are of their gouernment: which is a personall office, and not belonging vnto lands; neither can he that taketh vpon him the qualitie of a deputie, lieutenant, or gouernour, be feudatarie or proprietarie of those seignories that he holdeth of him whose lieutenant he is. And so the title of perpetuall lieutenantship ought to haue relation vnto other countries, without the territorie and demaines of his countrey of Sauoy: which neither the Swissers, nor other princes of Italie & Germanie could endure; and much lesse the French king, who holdeth nothing of the empire, whereby he might be iusticiable to the lieutenants of the empire. Ioyne hereunto also, that the Emperour *Charles* the fourth made *Charles* the sixt Dauphin of Viennois, his perpetuall lieutenant, the xiiij day of Ianuarie, in the yeare 1378. And for that he was but nine yeares old, he gaue him the priuelege of his age, by a most ample and gracious charter, whereunto hang seales of gold, which I haue read in the records of our kings. But withall made him perpetuall lieutenant of the kingdome of Arles, (excepting onely the countie of Sauoy) and that more is, gaue him power of life and death ouer the subiects of the empire; with power also to conferre honors, to impose and raise taxes, and from the same to exempt whome he saw good, to receiue appeales made vnto the emperour, to make peace and warre, to giue laws vnto the subiects, and to disanull and abrogat the same, and such other like. This lieutenantie was for all the kingdome of Arles, which extended from the mountaine Iura (commonly called saint *Claudius* mount) and the riuers Aratis and Rhodanus, vnto the Alpes, and the sea of Genes; all which the imperials haue alwaies pretended to be holden of the empire. But the earles of Prouence haue long since exempted themselues from the German empire, amongst whome was *Raymund* the last, one of whose daughters was married vnto *Lewes* the ninth, the French king, and the other vnto *Charles* duke of Aniou, by which meanes the countie of Prouence is come to the house of Aniou, & from thence by the bountie of countie *Renat*, vnto the crowne of Fraunce. Albeit that *Philip Valois* the French king, had bought of the emperour *Henrie* the fift, the soueraigntie of all the realme of Arles, without excepting either the countie of Sauoy, or the principality of Orenge, or Beiauiou, which was afterwards giuen to *Lewes* duke of Burbon; either of the countie of Prouence, which was then in the house of Aniou; either of the franke countie, which was giuen to *Philip* the hardie, by the emperour *Charles* the fourth, in the yeare 1362, being deuolued to the empire for want of heires male. And the sale of soueraigntie of the said kingdome of Arles, was made for the summe of three hundred thousand markes of siluer, with promise to cause it to be ratified by the princes of the empire, who afterwards consented thereunto: of which their confirmation the emperour gaue *John* king of Bohemia suretie, who sold also the towne of Luques vnto the same king, for an hundred and fourescore thousand florines of gold, in the yeare 1330. The contracts, ratifications, and quittances, are yet in the treasure of Fraunce to bee seene, from whence I haue the exemplifications conferred with the originals, wel-worthy to haue bene seene of them who were deputed for the affaires of Sauoy, in the yeare 1562. But that me thinke well worth the marking, that in the deedes of bargain and sale, are comprised all the lawes of soueraigne maiestie, which the German emperours giue vnto themselues in all the prouinces of the kingdome of Arles: wherein are contained the Sauoians, they of Belloioci, they of Prouence, they of free Burgundie, which the emperour *Charles* the fourth gaue to *Philip* duke of Burgundie to bee possessed in the imperiall right, the issues male of the counties sayling. VV hereby it is manifest

A nifest the French kings to haue the right offoueraigne maiestie ouer all the people of the kingdome of Arles, and not therefore to owe any fealtie or homage vnto the German empire.

And at the same time as it were the emperour *Lewes* of Bauaria made *Edward* the third, king of England his perpetuall lieutenant; and by his letters pattents gaue him power to make lawes, and to administer iustice to all the subiects of the empire: and that all the subiects of the empire should obey him, and in his name to yeeld vnto him fealtie and homage: which was an occasion rather sought for, than offered, for him to make warre vpon the French king, who then held *Cambray* and the castles of *Creuecent*, and *Payerne*, members of the empire: for that by the auntient leagues made be-

Edward the third King of England made perpetual Lieutenant of the Empire

B twixt the French kings and the emperours, it was provided, That they should not one of them take any thing from the other, or molest one the others subiects; as was declared vnto king *Edward* by the imperiall princes allied with him, and then assembled in the towne of *Hale*: which is a most certaine argument that the kings of Fraunce hold nothing of the empire; neither that the emperours haue any right in that kingdome.

The Kingdome of France not to hold any thing of the Empire.

Which is also exprestly set downe in the contract of purchase of *Philip Valois*, which I haue here before rehearsed, which beareth this clause: *And the kings and realmes of Fraunce shall continue in their priueleges, enfranchisments, and liberties, that they haue alwayes holden against the German empire; whereunto they are in nothing subiect.* Which was well giuen the emperour *Sigismund* to vnderstand, at such time as he of his imperi-

C all power would haue made the countie of Sauoy duke, in the towne of *Lyons*: against whome the kings officers there so opposed themselves, as that hee was glad to get him out of the kingdome; at libertie to vse his owne power, which he did in great choller and displeasure. And this was done by the expresse commaundement of the king, *Charles* the sixt, to couer two notable errors that had bene before committed: the one passing by sufferance, in that the emperour *Sigismund* being magnifically receiued at Paris, and as befeemed the kings vnckle, had place in a royall seat in full parliament; and the other, that afterwards he was suffered to make *Seneschal D'Beucaire* knight; although the court had in this last point admonished the king, that vnto him onely it belonged to make knights in his owne kingdome; as it had twice before bene solemnely

D iudged by two decrees against the counties of Flaunders and Neuers. Which I haue the more willingly noted, to show the error of *Alciat*, who hath maintained, that the French king is subiect to the empire; which is a wilfull error or ingratitude, considering the entertainment he had in Fraunce to teach and write the truth: which I thinke not to haue proceeded from him of ignorance, but in fauour of the emperour *Charles* the fift, who drew him to *Paue*, and there doubled his salarie: or els to the imitation of *Bartholus*, author of that error, who writ the same things of the French kings that *Alciat* did: at such time forsooth as he was by the emperour *Charles* the fourth of a bastard not onely made legitimat, and by him ennobled, but power also giuen him to take the benefit of age to him and his, which should professe to teach the lawes, with armes

Alciat and Bartholus taxed.

E also answerable vnto his dignitie and honour: viz. a Lyon Azure in a field Argent. For which so many and so great benefits he writ all them to be heretikes, which should deny the German emperour to be lord of all the world: which hee seemeth to haue gathered of the words of *Antoninus Augustus*, vnto the law *Rhodia*; *I am* (saith he) *the lord of the world, and law of the sea*: which words seeing they were spoken but for ostentation sake, and for the augmenting of his honour, lesse need to bee refused; seeing that the Roman empire when it was at the greatest, (which was in the time of *Traian* the emperour) contained scarce the thirtieth part of the world, and that the German empire is not now the tenth part of the Roman empire. And yet the empe-

The German Empire not now the tenth part of the Roman empire.

your *Sigismund* sick of that incurable disease of ambition, sought to haue brought euery mans gouernment vnder his; although he was in that his hope much deceiued. For intruding himselfe to haue made the duke of Lituania a king (whose countrey lieth aboute two hundred leagues from the frontiers of the empire of Germany) hee sent him a crowne and a sword, which for all that the duke refused, neither thought it good to change the name of the *Great Duke* (whereby he was called) although he had of himselfe shaken off the seruile yoke of the Tartars, least in so doing hee might seeme to haue attributed his power and soueraigntie vnto the Germans.

The kings of Polonia hold nothing of the empire.

We see also that the Germaine Emperours haue sent the royall Crownes vnto the Dukes of Polonia, before they were by the Pope suffered to beare the Royall title; which they refused: and yet certaine it is, that the Kings of Polonia neuer held any thing of the Empire. Oftentimes indeed the Germaines haue attempted to haue subdued the Polonians, whose vaine attempts the Polonians haue not onely repulsed, but also ioyned vnto their kingdom the countries of Silesia and Prussia, both rent from the body of the Germaine Empire. Which when the Prutenian knights had taken in euil part, and thereof oftentimes complained to the states of the empire, yet the emperours thought it not good for to attempt any thing against the Polonians, by whom they had knowne the imperiall armies to haue been many times repulsed and ouerthrowne. And yet for all this, the Polonians refused not to take their royall scepters from the bishops of Rome. True it is that the bishops of Rome of long time strue with the Germaine emperours for the soueraigntie and chiefe gouernment of the Christian Commonweale, and as chieftaines of the faction, drew all the Christian princes and cities into armes; so that many cities and Commonweales, especially in Italie, were at such mortall hatred amongst themselues, as that they receiued not greater harme from the enemies of the Christian religion and name, than they did from one another. Neither wanted there some which writ in earnest, al Christian kings to be the bishop of Romes clyents and vassals; and in case that they were foolish, furious, or prodigall, that they might haue ouerseers appointed ouer them by the pope: which we haue before said, to haue been done by pope *Innocent* the fourth, against the king of Portugall. And albe it that pope *Innocent* said, That his meaning therein was not in any thing to preiudice the regall power, in appointing such an ouerseer; yet did not his sayings at all agree with his dooings. Pope *Vrbane* the fift also made no doubt, to make legitimate *Henry* the bastard king of Castile, so to thrust out of his kingdom his brother *Peter*, borne in lawfull wedlocke: who therevpon, by the power of the French, was not onely thrust out of his kingdom, but slaine also by his bastard brother. Some there haue been also which haue passed further, saying that the pope hath in power iurisdiction ouer the emperour; but ouer all other kings and princes really and indeed: excepting ouer the French king, whom the canonists themselues confesse, indeed, and of right to acknowledge none greater than himselfe vnder God. Which *Belluga* a Spanish doctor, and *Oldrade* the beautie of his time do also better declare, saying that the French king neither in fact nor of right acknowledgeth any prince of the world superiour vnto himselfe. But these great clearks which thus giue the popes power ouer other princes, haue no better reason for that they say, than the authoritie of pope *Gelasius*, who hath written, That the pope hath power to dispoyle all kings and princes of their soueraigntie and power. And some others there be which haue maintained, That appeales may be made from all people and princes vnto the pope, That there is none but the emperour and the pope which can reuoke their owne decrees, and depriue other kings and princes of their soueraigntie and rule; That there is no prince but hee, vnto whom the pope hath confirmed his principalitie: And that which of all other is most absurd,

That

The fruit that came of the strife betwixt the German emperour and the pope for the soueraigntie of the Christian Commonweale.

The immoderat and absurd power which some attribute vnto the pope.

- A** that hee of himselfe may giue priueleges, exemptions, and immunities vnto another princes subiects contrarie to the decrees and lawes of all princes; and that he is the only and supreme vmpiere and iudge of all mans lawes. And what maruell if he rule ouer princes, which commaundeth ouer angels? For so truly *Clement V. P. M.* doubted not to commaund the angels. Yea some there be that haue written, That so often as the pope shall put this clause to his rescripts, *De plenitudine potestatis*, Of the fulnesse of our power: so oft doth he therein derogat from the lawes of all princes. And albeit that some haue holden also, That we must rest vpon that that the pope saith, without farther enquire of the veritie therof; yet so it is neuerthelesse, that *Baldus* hath written, That a man may say vnto him, *Salua reuerentia vestra*, By your reuerences leaue.
- B** And vpon the maxime set downe by the canonists, *That the pope can do all*: the diuines graunting it to be so, do yet more subtilly, and as it were in two words moderat the same, *Clause non errante*, The key not erring. And forasmuch as it is euery good subiects part to maintaine the greatnesse and maiestie of their owne princes, I will not enter into the disputes of *Iaques de Terranne* the popes chamberlaine, nor of *Capito*, nor of *M. Charles du Moulin*, and others, who haue oftentimes ouershot themselues either of set purpose, or els pressed with violent passions, haue vnawares entred into matter of religion, and so carried away either with loue or hatred of the pope, haue filled their writings with raylings. Whereas I here speake not but of temporall soueraigntie, which is the subiect that I entreat of, (whereof they speake not) to the end it may be vnderstood, who be absolute soueraigne princes; and whether the other princes be subiect vnto the emperour, or the pope, or not.
- C**

For at the beginning, after that pope *Gregorie* (he which first called himselfe the seruauant of the seruants of God) had obtained of *Phocas* emperour of Constantinople, the prerogatiue ouer all the bishops; his successours after turning the spirituall power into the temporall, by little and little still encreased their power, in so much that the princes as wel for the fear they then had towards God, as for the dignitie of the prelacie, began to reuerence them much more than in former times; but much more after that the empire of the East began to decline, which was after that the popes had by their interdictions forbidden the people of Italie their obedience vnto the Constantinopolitan emperours, or to pay them any tribute; vpon occasion taken, that *Leo* the emperour, surnamed *Monomachus*, or the *Image breaker*, and also *Thomas* the emperor, had caused the images of Saints to be cast downe and broken: wherewith the people moued, and enraged with the authoritie of the bishop of Rome, slew *Thomas* in the temple of Saint *Sophia*. Wherefore the power of the Greeke empire being weakened in the East, by the incursions of the Barbarians; and the Greeke emperors out of hope againe to recouer Italie; the kings of Lombardie then also doing what they might to make themselues lords of all Italie, and the popes also on their parts no lesse desirous to haue therein a share, and finding themselues too weake to make their partie good against the Lombard kings, vpon this difference cast themselues into the protection of the kings of Fraunce, who then were the greatest Monarches of Christendome; wherein they were not of their hope deceiued. For hereupon, *Pipin* Grande

E *M.* of Fraunce (a man of great wealth and power, who then disposed of all the affaires of the realme) with a great army passing ouer the Alpes, ouerthrew and discomfited the power of the Lombards, and afterward going to Rome, was the first that gaue vnto pope *Zacharie*, part of the seignorie of Italie, who had before crowned him king of Fraunce, forbidding the peeres and people of Fraunce to make choyce of any other for their kings but of the house of *Pipin*, hauing publicly pronounced king *Childerike* for his fortifuesse to bee vnable for the gouernment. Whereunto the people of

The beginning
of the popes
greatnes.

The popes put
themselves into
the protection
of the French
Kings, Pipin and
Charlemaigne
his sonne, the
popes great
champion,

Fraunce made so much the lesse resistance, for that *Pipin* then had the nobilitie and the armie of Fraunce at commaund: and for that the pope (who as then was esteemed as a God vpon earth) was the author thereof, vnto whome *Pipin* had before solemnly promised, and giuen him letters pattents thereof, That if hee should become victorious ouer the Lombards, he should giue vnto the Church of Rome the Exarchat of Ra- uenna, which contained thirtie cities, and the prouince of Pentapole, which contained sixteene cities moe: which he after the victorie performed, laying the keyes of the said cities vpon Saint *Peters* altar: yet reseruing vnto himselfe and his successeurs in the crowne of Fraunce, the soueraigntie of both the prouinces; and that more is, power also to chuse the popes. Whereunto the pope not onely willingly graunted, but almost perswaded *Pipin* to take vpon him the name of an emperour: which title none then vsed, but the emperours of Constantinople. But *Pipin* being dead, the Lombards againe tooke vp armes, to the great disquiet of the popes, who againe had recourse vnto the French kings, as vnto a most sure sanctuarie. Whereupon *Charles*, *Pipin* his sonne (for his many and worthy victories surnamed the *Great*) with a strong army passing the Alpes, not onely ouerthrew the king of the Lombards, but euen their kingdom also: and hauing surely established the power of the Roman bishops, was by them called Emperour: and they againe by *Charles* so long as he liued, all chosen bishops of Rome. But after the death of this *Charlemaigne*, they which were of great credit in Rome, caused themselues to be chosen pope by the clergie, whether it were for the distrust they had to obtaine that dignitie of the kings of Fraunce, hauing no fauour in the court; or through the negligence of the French kings, who had thereof no great care; or that it was by reason of the great ciuill warres which arose betwixt the children of *Lewes* the Gentle, wherewith the French kings busied, lost the prerogatiue they had in chusing of the chiefe Bishop. Yet *Guitard*, a good antiquarie, who liued in the same time writeth, 3 popes successiuelly to haue come into France to excuse themselves to *Lewes* the Gentle, That they had beene by the clergie of Rome constrained to accept of the papal dignitie, beseeching him to confirme the same: which he either as a man not desirous of glorie, or els fearing to prouoke the clergie (being then in great authoritie) did: of which his error he afterwards though to late full sore repented him; being by the colledge of cardinals constrained to yeeld vp his crowne, & to make himself a monke, and the queene his wife a nunne, shut vp apart from her husband in a cloister with other nunnnes, who yet were againe afterwards deliuered by the princes and nobilitie of Fraunce, (disdaining to see the pride of the clergie) and so againe restored vnto their former honours.

But after the death of this *Lewes* the Gentle (who was emperour of Fraunce, of Germanie, and of the greater part of Italie, and Spaine) the empire was diuided into three kingdomes, which the brethren *Charles* the Bauld, *Lothaire*, and *Lewes*, euerie one of them held in title of soueraigntie, without acknowledging any superioritie of one another; and againe, the kingdom of *Lothaire* was diuided amongst his children into three parts: vnto one fell the kingdom of Loraine, vnto another the kingdom of Arles, and to the thirde the kingdom of Italie: *Lewes* holding Germanie, and *Charls* the emperour, Fraunce. So their diuided power began to decay, and the wealth of the bishops of Rome greatly to encrease: they now succeeding one another by way of election, and in nothing acknowledging the maiestie of the French kings, as they ought to haue done: which came to passe especially in the time of pope *Nicholas* the first, who better vnderstood to mannage matters of state than had his predeceßours, and was the first that vsed the rigour of excommunication against princes, hauing excommunicated *Lothaire* the younger brother of *Lewes* king of Italie. But the children of

How the French
Kinges lost the
prerogatiue they
had in the
chusing of the
Pope.

When the pope
began first to ex-
communicat
Princes.

Lothaire

- A *Lothaire* being afterwards dead without issue, those three kingdomes which I spoke of, *viç.* of *Lorraine*, *Arles*, and *Italie*, were diuided betwixt their vncles, *Charles* and *Lewes*. Wherefore *Lewes* king of *Germanie* gouerned *Italie*, which fell vnto his part, by his lieutenants and deputies; whose power was not such as to withstand the popes, but that they still by little and little extended their power and government: which especially hapned at such time as *Guiscard* the Norman had subdued the kingdome of *Sicilie* and *Naples*, taken from the Greekes and Moores; who to weaken the power of the Germans, and to raigne himselfe the more safely in *Italie*, ioyned hands against them with the Bishops of *Rome*. But the posteritie of *Guiscard* being dead without heires male, left the kingdome of *Naples* and *Sicilie* vnto a woman their heire; married vnto the
- B German emperor *Frederick* the second; who going into *Italy*, there to confirme his power, made choice of another pope (one of his own favorites) than was he whom the collidge of cardinals had before chosen: which was pope *Innocent* the fourth, a man both for his birth and learning famous; who driuen out of *Italie*, and comming into *Fraunce* (the popes surest sanctuarie) and strengthened with the wealth and power of *Lewes* the ix, the French king (whether it were for reuerence of him the pope so solemnly by the cardinals chosen, or to weaken the power of the Germans) excommunicated the emperour *Frederick* the second: who seeing himselfe thereby become odious vnto all men, & himselfe like to be forsaken euen of his own subiects, & great troubles arising also against him in *Italy*, fearefully returned into *Germany*, hauing obtained
- C absolution of pope *Innocent*, by yeelding vp his authoritie and power for any more creating of the bishops of *Rome*, leauing the kingdomes of *Naples* and *Sicilie* vnto his base sonne *Manfred*, who was also excommunicated, by pope *Vrban* the fift: who not yet so contented, called in *Charles* of *France*, duke of *Aniou*, brother to king *Lewes* the ix, whome he inuested in the aforesaid two realmes of *Naples* and *Sicilie*, reseruing vnto the See of *Rome* the countie of *Beneuent*; fealtie, homage, iurisdiction, and soueraigntie for the rest; with a yeately and perpetual fee of eight thousand ounces of gold, as we haue before said. After which time the house of *Arragon*, which by right of kindred succeeded the posteritie of *Manfred*, being alwaies at oddes with the house of *Aniou*, and so in continuall warres for these kingdomes of *Naples* and *Sicilie*; and seeing it not possible for them to recouer them so long as the pope was their enemy, they found meanes to gaine the popes fauour, and so made themselues the popes vassals, not onely for the kingdomes of *Naples* and *Sicilie*, but also for the kingdomes of *Arragon*, *Sardinia*, *Corfica*, *Maiorque*, and *Minorque*: which they partly did also for to obtaine the popes pardon for their offences, as we haue before said. The bishops of *Rome* in the meane time out of the troubles of these two great houses, encreasing their owne power and profit, peaceably enjoyed the territorie about *Rome*, *Spolet*, and *Beneuent*, with a good part of *Tuscanie*, by vertue of the donation which wee haue before spoken of.
- D

The increasing
of the popes
power.

Why the Kings
of *Arragon* made
themselves the
popes vassals for
the kingdomes
of *Naples* and
Sicilie, and sub-
mitted also vnto
him the rest of
their kingdoms.

- E As for the citie of *Rome*, sometimes mistresse of the world, they brought it vnder their obeyfance, hauing by little and little oppressed the libertie thereof, no man gaine-
saying them. Albeit that *Charlemaigne* hauing conquered *Italie*, expresly commaunded that it should remaine in full libertie, with power left vnto the inhabitants to gouerne their estate, which the Roman bishops had also by their oathes confirmed; as *Augustine Onuphre* the popes chamberlaine writeth, and as it well appeareth by the Vatican records.

How the citie of
Rome was
brought vnder
the popes obey-
fance.

Now if there were any soueraigne prince that were a tyrant, or an heretike, or that had done any notorious crime, or not obeyed the popes commaund; hee was by the pope forthwith excommunicated: which was occasion enough to cause his subiects

The great daun-
ger princes were
sometimes in by
reason of the
popes excommu-
nication.

to reuolt from him, and to arme other princes against him which was so excommunicated; who then had no other meane left to be againe receiued into fauour, but to make himselfe feudatarie to the Church of Rome, and the popes vassall. As I haue before said of *John* king of England, who made himselfe vassall to *Innocent* the third, for the murther committed in the person of young *Arthur* duke of Britaine. And augmented also the feodall rent of England, for the murder committed by the commaundement of the king of England, in the person of *Thomas* Archbishop of Canterburie. As in like case it chaunced for the murther committed in the person of *Stanislaus* archbishop of Guesne, by the commaundement of the king: for which the pope excommunicated the king, and tooke the roiall title from the kings of Polonia; enioyning also their subiects therefore (as some haue written) to shawe their heads behind, in such sort as we yet see them to doe: which whether it be true or no, I dare not to affirme, neither could the Polonians tell me the cause thereof when I asked it of them: but manifest it is by auncient records, that after the murther of that bishop, the kings of Polonia all thought they had the power of soueraigne maiestie, yet were they called but by the name of dukes, vntill the time of *Lucold* duke of Polonia, who receiued the royall crowne and title, of pope *John* the xxij, vpon condition to pay into the popes coffers a certaine yearely tribute, which is yet at this day paid for the lampe of Saint *Peter*, as we read in their histories. And beside those kingdomes which wee haue spoke of, viz: England, Arragon, Naples, Sicilie, Hierusalem, Polonia, Sardinia, Corsica, and the Canaries, all feudataries or tributaries vnto the popes, or els both together; they haue also pretended the soueraigntie of the kingdome of Hungarie, to belong vnto them, and so it is comprised in the Catalogue of the Chauncerie of Rome. And I haue seene in the Vatican Register, an act dated in the yeare 1229, whereby *Ladislaus* the first, king of Hungarie, promisseth his obedience vnto pope *Benedict* the xij, and acknowledgeth that he ought to receiue the crowne at his hands. And by another act of *Ladislaus* the second, king of Hungarie, excommunicated for the disobedience by him committed against the popes Legat; for to haue his absolution, he bound himselfe to pay yearely into the popes chamber an hundred markes of siluer; which obligation beareth date the yeare 1280. Yet in the same Vatican register, dated in the yeare 1308, whereby it appeareth also, the batons of Hungarie to haue sharply opposed themselues against the popes Legat, alleaging Saint *Stephen* the first king of Hungarie, to haue receiued his crowne of the pope, and that they would not endure the pope to haue any such prerogatiue ouer them: and yet neuerthelesse they letted not, but that the king by themselues chosen, might if so pleased him cause himselfe to bee crowned by the pope. And in the end of that act are many decrees of the popes legat, concerning the state of that kingdome, with prohibitions to the kings of Hungarie for alienating any the demaines of the crowne: which may seeme to haue bene the cause that *Andrew* king of Hungarie, was by *Honorius* the pope cited to Rome, to show why he had alienated part of the publike demaines. *Innocentius* also the third expressly enioyned the king of Hungarie to fulfill his dead fathers vow; threatning if he should refuse so to doe, to deprive him of his kingdome, and to giue it to him that was next of kin. Which a man need not to thinke strange in those times, seeing that at the same time wee see the prohibitions made by the pope vnto the counties of Tholouze, (and inserted into the Decretals) that they should not raise any new charges vpon their owne subiects. As for the kingdome of Hierusalem and Syria, wonne by *Godfrey* of Buillon and his allies, it is manifest that he therefore professed himselfe to be the popes vassall, and to hold it of him by fealtie and homage: besides that we find it comprised in the Catalogue of the feudatarie kings of the church of Rome. And as concerning the Grand Masters of the

Thomas Cromwell.
Soveraigntie by
the pope pre-
tended vnto the
Kingdome of
Hungarie.

F
G
H
I
K

A honourable order of *S. Iohn Hierusalem*, which was composed of eight sundrie people of diuers language, they were alwayes inuested by the pope, and yet do fealtie and homage vnto the popes for the soueraigne power which they haue ouer the knights of their order: albeit that they did homage also vnto the emperour *Charles* the fift, for Tripolis in Barbarie, before it fell into the hands of the Turke: as now also they doe at this present vnto the king Catholike, for the isle of Malta, which was vpon that condition giuen them.

The Grand Master of S. Iohn Hierusalem feodatarie both to the king of Spaine and the pope.

B And as for the kingdome of Nauarre, vnder the colour of excommunication taken from *Peter Albret*, we said before, that it is by the kings of Spaine holden of the popes of Rome by fealtie and homage. And not many yeares ago pope *Pius* the fift would vnder the same colour of religion, haue taken also the rest that was yet left, from *Ione* queene of Nauarre, hauing caused her to be cited to Rome; and afterward for default and contumacie, causing her by his commissioners to bee condemned: had not king *Charles* the ix taken vpon him to protect her, as being his subiect, vassall, and neere kinswoman: which he gaue all Christian princes to vnderstand, vnto whose maiestie the proscription of that most honourable queene might well haue seemed preiudiciall.

The kingdome of Nauarre holden of the pope.

C For many were of opinion that the pope was absolute soueraigne lord of all the kingdoms of Christendome. And in our age, at such time as *Henry* the eight, king of England, was reuolted from the pope, the earle of Aisimund, an Irish man, sent letters vnto *Henry* the second the French king, (the copie whereof I haue taken out of the records) whereby he offered himselfe to become his subiect, if he should of the pope obtaine the soueraigntie of the kingdome of Ireland, which we said to haue bene vnder the fealtie of the bishop of Rome, since the time of *Innocent* the third. They haue also pretended themselues to haue the soueraigntie of Mirandula, and of the counties of Concorde, Rege, Modene, Parma, & Placence, for which the popes *Iulius* the second and third, both of them made great warres against the French king, when as yet it was most manifest those cities to depend of the German empire. Of Parma, and Placence there is no doubt; and the rest they confesse *Maud* the countesse to haue had by inheritance, holden by fealtie of the emperours, which she gaue to the church of Rome.

D Now if we graunt the aforesaid cities might haue bene giuen vnto the bishop of Rome, and to haue bene indeed giuen, as the bishops themselues vaunt; they must also confesse themselues to haue bene vassalls vnto the German empire. But for that it seemed a dishonour to the bishop of Rome, which said himselfe to haue power ouer all princes, to be accounted a vassall and client of the emperours; they said (but falsly) the soueraigntie of all the cities of Italie, which were within the dominions of the Church of Rome, to haue bene by the emperours graunted vnto the bishop of Rome. And to exempt themselues, they produce a donation which I haue read in the Vatican register without date or name of bishop, whereby *Otho* the emperour (but which *Otho* it is not said, when as there haue bene foure of that name) doth giue vnto the church of Rome Pisaurum, Ancona, Fossabrum, and Ausun. Other letters patents also there is of the emperour *Otho* the fourth, vnto pope *Innocent* the third, conceived in these words, *Ego Otho quartus rex Romanorum semper Augustus, tibi domina meo papa Innocentio tertio, tuisq; successoribus ecclesie Romanae, spondeo, polliceor, & iuro, quod omnes possessiones Ecclesie, &c.* I *Otho* the fourth, king of the Romans, alwayes victorious, do auow, promise, and sweare, to thee my lord pope *Innocent* the third, and to thy successors of the church of Rome, that all the possessions of the Church, &c. And that which followeth after, containeth a most copious confirmation of all the lands and cities which then were in the dominion or patrimonie of the church of Rome, whether they were giuen by the emperours themselues, or by any other lords or princes whatsoeuer: in the

The pope of right vassall vnto the German empire for the cities he holdeth thereof in fee.

number of which cities are these contained: *Comitatus Perusie, Reate, Saluie, Interamne, Campania, nec non Romam, Ferrariam, &c. Marchiam, Anconitanam, terram Comitisse Matildis & quecunque sunt circa Rodicofanum vsque Ceperanum, exerchatum Rauenne, Pentapolum cum alijs terris, &c.* The same forme of confirmation is in the Vatican records to be seene, both of *Rodolph* the emperour, and *Charles* the fourth; bearing date the yeare 1289, and 1368, importing that they also out of their abundance gaue vnto the pope and to the church of Rome so much as should be needfull, and all that which *Henrie* the fift his grandfather had before giuen and confirmed vnto the church, that so all the occasions of discord which had before bene betwixt the emperours & the popes, might be altogether taken away. So that if these donations be good, the popes are exempted from their fealtie and homage due vnto the emperours, by reason of the fees that they hold, and which are members of the German empire. But if the emperours could not without the consent of the princes and cities of the empire, giue away the publike territories and rights of soueraigntie; and that the imperiall and publike territories cannot be encroached vpon; and much lesse the right of soueraigntie and patronage, whose authoritie for euer ouer the subiects and vassals cannot bee prescribed against; it must needes follow, the popes to bee the vassals of the German empire.

Right pretended
by the German
Emperours to the
election of the
pope.

The same we may say of the election of the bishops of Rome, which the German emperours pretend of right to belong vnto them. For the emperour *Frederick* the second to haue absolution from pope *Innocent* the fourth, caused to be deliuered vnto him his letters pattents, sealed with a seale of gold, dated the yere 1229: whereof I haue seene the extract, and of his empire the seuenth, and of his raigne in the kingdome of Sicilie the xxij. Whereby he entirely renounceth the right of election which he had in the creating of bishops, vsing these words, *Illum ab usum abolere volentes, quem quidam predecessorum vt electiones libere fiant & canonice*, Wee willing to abolish that abuse which some of our predecessours were knowne to haue exercised in the elections of prelates, graunt that those elections may be freely and canonically made. By which words he seemeth to renounce not onely the creation of the bishop of Rome, but all other bishops also. Howbeit that in truth that right of chusing of the popes belonged to the kings of Fraunce, and not vnto the German princes, who haue but vsurped the name and title of emperours, got by the prowesse and force of *Charlemaigne* king of Fraunce, and by him left vnto his successors the kings of Fraunce, and not vnto the kings of Germany: for so they were called in all the auntient treaties and histories of Germanie and Fraunce, and not emperours, except those which were crowned by the popes. But after that the power of the German kings was farre spread in Italie, they then sought to vsurpe vnto themselues that right of chusing of the bishops of Rome: whether it were for the encreasing of their owne wealth and power, or for to take away the ambition and foule corruption then vsed in voyces giuing, and in their elections. For the emperour *Henrie* the third thrust out of his papacie *Gregorie* the sixt, chosen pope by the clergie, and set *Clement* the second in his place; and afterwards compelled the clergie to sweare, not from thenceforth to admit any into the papacie, without the consent of the German emperours; as we haue learned out of the Vatican records. But *Clement* the second being dead, the colledge of Cardinals sent ambassadours vnto the emperour to appoint whome hee thought good to bee pope, who appointed *Pepon*, afterwards called *Damasus* the second; who dead, the clergie againe sent ambassadours vnto the emperour, for the creating of a new pope: who sent vnto them *Brunon*, otherwise called *Leo* the ix: and after him *Victor* the second. After whose death the clergie made choyce of *Frederick*, and after him of *Alexander* the

Popes chosen
and placed by
the Germane em-
perour.

A second: which when the emperour *Henry* the fourth vnderstood, he sent them *Cadol* bishop of Parma for pope, who although he were so receiued in all Lombardie, yet was he thrust out by pope *Alexander*. After *Alexander* succeeded *Hildebrand*, otherwise called *Gregorie* the seventh, chosen also by the clergie, who vpon the grievous paine of excommunication, forbade all lay men to bestow any Ecclesiasticall livings or benefices vpon any whomsoever: And also excommunicated the emperour *Henrie* the fourth, for disobeying his commaundement in creating of bishops in Germanie: Wherewith the emperour moued, and with his armie passing ouer the Alpes, chased this *Gregorie* the seventh out of the citie, who had holden the papacie eleuen yeares, and placed in his stead *Clement* the third, who held that dignitie seauenteene yeares, against foure popes successiuelly chosen by the clergie. After whose death *Henrie* the 5th the emperour made *Bourden* pope; without regard of whom, the clergie neuerthelesse made choice of *Calistus* the second a Burgundion, who draue out *Bourdin*, before nominated by the emperour: and by a decree made at Wormes, enforced *Henrie* to sweare neuer more to take vpon him to bestow any spirituall livings vpon anie: yet with condition, that he might be in the assemblies of the Bishops assisstant, if he thought it so good. Which decree of the emperour *Henry* the fift is yet extant in the Vatican records, in these words, *Pro salute anime meae dimitto Deo & sanctis Apostolis Petro & Paulo, sanctaeque Ecclesiae Catholicae, omnem inuestituram per annulum & baculum, & concedo in omnibus ecclesijs quae in imperio meo sunt, Canonicam fieri electionem.* For the health of my soule I remit vnto God and the holy Apostles *Peter* and *Paule*, and to the holy Catholique Church, all inuestiture to bee made by Ring and pastorall staffe, and do graunt Canonically election to be made in all the Churches which are in mine Empire. Neuerthelesse 229 yeares after, the Emperour *Lewes* of Bauaria created *Nicholas* the fift bishop of Rome: *Iohn* the two and twentieth, a Frenchman, then sitting as pope at Auignon, who peremptorily cited the emperor to appeare before him and for default & contumacie, pronounced sentence of excommunication against him: The emperour likewise on the contrarie side summoned the same pope *Iohn* to come before him, saying the bishops of Rome to be subiect vnto his edicts and commaunds, as emperour: and by sentence giuen at Rome, where *Nicholas* the Antipape held his seat, depriued *Iohn* of his papacie. Which *Nicholas* afterwards retiring himselfe vnto Pisa, was by the citizens there betraied into the hands of pope *Iohn* his mortall enemy at Auignon, where he shut vp in prison, for sorrow languished to death: and the emperour excommunicated, and therefore detested of all men, was forsaken of his subiects. And this was the eight emperour whome the bishop of Rome excommunicated: after whose fall the German emperours thought it not good afterwards to attempt any thing against the bishops of Rome. But to the contrarie the emperour *Charles* the fourth gaue out his letters patentes, in the yeare 1355, whereby he acknowledged vnto pope *Innocent* the fift, That although hee were chosen emperour by the princes, yet that he ought to take the confirmation of his election, and the imperiall crowne of him the pope; beginning in these words, *Post pedum oscula beatorum, &c.* After the kissing of your blessed feet, &c. Which words we see still repeated in all the emperours letters vnto the bishop of Rome, euen from the time of *Lewes* of Bauaria, vntill now.

There is also extant in the Vatican, the forme of the coronation of the emperours, and by the emperour *Charles* the fourth approued; but no where more seruile seruices: where amongst other ceremonies, the emperour is as a subdeacon to minister vnto the pope whilest he is saying masse; and after diuine seruice done, to hold his stirrop whilest he mounteth to horse, and for a certaine time to lead his horse by the bridle: with di-

The eight emperours excommunicated by the pope were these, *Fredericke* the first, *Frederick* the second, *Philip*, *Conrade*, *Otho* the fourth, *Lewes* of Bauaria, *Henrie* the fourth, and *Henry* the fift.

Base seruices to be done by the emperour to the pope.

uers other ceremonies at large set downe in the Vatican records, which it is needlesse here to rehearse. And yet one thing more is worth the marking which is not in the record expressed, which is, that the emperour to receiue the imperiall crowne, must goe to seeke the pope wheresoeuer he be, and to follow him if hee chaunce to remoue; as did the emperour *Charles* the fift, who being come into Italie, with hope to haue gone vnto the * pope at Rome, being aduertised of his departure thence to Bononia, was glad thither to follow him: that so the dutie of an inferiour prince towards the maiesty of his superiour might the more plainly be-perceiued. But after the death of *Charles* the fift, *Ferdinand* the emperour could not obtaine, that the pope should in his absence ratifie his election; but was oftentimes by the pope threatned, That hee would take such order for him, as that he should haue nothing to doe with the affaires of the German empire: neither would he admit the emperours lawfull excuse, vntill hee was by the requests and meditation of the French king, and of the king of Spaine appeased: which the German princes tooke in euill part, seeing they had promised vnto *Ferdinand* to imploy their whole power for the defence of the maiestie of the empire, against that the popes enterprises; as I haue learned by the letters of the kings ambassadour, dated at Vienna, in Iuly 1559. And to show a greater submission of the emperours vnto the popes, the subscription of the emperours letters vnto the pope, is this, *Ego manus ac pedes vestrae sanctitatis deosculor, viz.* I kisse the hands and feet of your Holinesse. So vsed alwayes the emperour *Charles* the fift to subscribe to his letters, when he writ vnto pope *Clement* the seuenth. Which he did not vpon a fained courtesie, but indeed in most humble and seruite manner kised the popes feet, in the open sight of the people, and the greatest assemblies of many noble princes, at Bononia, Rome, and last of al at Marsielles in Prouence, where were met together the pope, the emperour, the kings of Fraunce and Nauarre, the dukes of Sauoy, of Buillon, Florence, Ferrara, Vitemberg, the Grand Master of Malta, with many other princes and great lords, who all kised the popes feet, except the dukes of Buillon and Vitemberg, Protestant princes, who had forsaken the rites and ceremonies of the church of Rome. In farre more base sort did that duke of Venice humble himselfe (who of the Venerians themselves is called a dog) for that he with a rope about his necke, and creeping vpon all foure like a beast, so craued pardon of pope *Clement* the 5. But nothing was more base, than that which almost al historiographers which writ of the popes affairs, report of the emperor *Fredericke* the second; who to redeeme his sonne out of prison, lying prostrat vpon the ground at the feet of pope *Alexander* the fourth, suffered him to tread vpon his head, if the histories be true. VV hereby it is well to be perceiued, the maiestie of the Emperours, by the power (should I say) or by the outragiousnesse of the Bishops of Rome, to haue bene so diminished, as that scarce the shadow of their ancient maiestie seemeth now to remaine. They also say themselves to be greater than the emperours, and that so much greater, as is the Sunne greater than the Moone: that is to say, six thousand six hundred fortie and fve times, if we will beleue *Ptolomee* and the Arabians. And that more is, they haue alwaies pretended a right vnto the empire; for the imperiall seat being vacant, they haue giuen the inuestitures vnto them which held of the empire, and receiued of them their fealtie: as they did of *Iohn* and *Luchin*, vicounts of Milan, the imperiall seat being emptie in the yeare 1341, who are in the records called vassals of the church of Rome, and not of the empire; and are forbidden their obedience vnto *Lewes* of Bawaria the emperour, who was then excommunicated, as we haue before said. For which cause the Canonists haue maintained, that the emperour cannot giue vp his imperiall dignitie vnto any, but vnto the pope: for which they yeeld this reason, That the emperours haue their soueraignie of men, and the popes of God: howbeit

Clement the seuenth.

The humble subscription
Charles the fift
vsed in his letters
to the pope.

The base submission
of the Duke
of Venice and
of Fredericke
the second vnto
the pope.

The maiestie of
the emperours
greatly diminished
by the pope

K

A howbeit that both of them, as all others also in general, are of right to attribute all their power vnto almightie God: Neuerthelesse the emperour *Charles* the fift worne with yeares and sicknesse, resigned his imperiall dignitie into the hands of the princes electors, and sent vnto them his resignation by the prince of Orenge. But howsoeuer the Bishop of Rome pretended to haue a soueraigntie ouer all Christian princes, not only in spirituall, but also in temporall affaires; whether they got it by force of armes, or by the deuotion and graunt of princes; or by long possession and prescription: yet could not our kings euen for any most short time endure the seruitude of the bishop of Rome, nor be moued with any their excommunications, which the popes vsed as firebrands to the firing of the Christian Commonweales. For these the popes interdictions, or excommunications, were wonit with other nations, to draw the subiects from the obedience and reuerence of their prince: but such hath alwaies bene the loue of our kings towards their people (and so I hope shall be for euer) and the loyaltie of the people towards their kings: that when pope *Boniface* the eight saw himselfe nothing to preuaile by his excommunication, nor that the people were to be drawne from the obedience of their king, after he had publicly excommunicated *Philip* the Faire, he in like maner excommunicated all the French nation, with all them which tooke *Philip* for a king. But *Philip* hauing called together an assemblie of his princes, and other his nobilitie, and perceiuing in his subiects in generall a wonderfull consent for the defence of his state and soueraigntie: he thereupon writ letters vnto *Boniface* (which are common in euerie mans hand) to reprove him of his folly: and shortly after sent *Nogaret* with his armie into the popes territorie, who rooke the pope prisoner, (giuing him well to vnderstand that the king was not his subiect, as he had by his Bull published) but seeing him through impatiencie to become furious and mad, he set him againe at libertie. Yet from that the popes interdiction, the king by the aduice of his nobilitie and Senat, appealed vnto a generall councell, which had power ouer the pope, abusing the holy cities. For the king next vnto almightie God had none his superiour, vnto whom he might appeale: but the pope is bound vnto the decrees and commaunds of the councell. And long tims before *Philip* the Victorious, and his realme being interdicted by pope *Alexander* the third, who would haue brought him into his subiection: answered him by letters, That he held nothing of the pope, nor yet of any prince in the world. *Benedict* the third, and *Iulius* the second, had vsed the like excommunication against *Charles* the seuenth, and *Lewes* the twelfth (who was called the *Father of his countrey*) that so as with firebrands they might inflame the people to rebellion: yet failed they both of their hope; the obedience of the subiects being in nothing diminished, but rather increased: the Bull of excommunication which the popes legat brought into Fraunce, being by the decree of the parliament of Paris openly torne in peeces, and the legat for his presumptuousnesse cast in prison. And not long after *John* of Nauarre, who called himselfe countie Palatine, when he had made certaine publike notaries in Fraunce, and made legitimat certaine of his bastards, by vertue of the authoritie which he had (as he said) from the pope, he was therfore by a decree of the parliament of Tholouze condemned of treason. True it is, that they which haue thought better to assure the maiestie of the kings of Fraunce against the power of the pope, haue obtained the popes buls whilest they yet sate in the citie of Anignion, to bee exempted from their power. And namely there is in the records of Fraunce a Bull of pope *Clements* the fift, whereby he not onely absolueth *Philip* the Faire and his subiects from the interdiction of *Boniface* the eight, but also declareth the king and the realme to be exempted from the popes power. Pope *Alexander* the fourth also gaue this priuilege vnto the realme of Fraunce, That it could not for any cause bee inter-

The French
kings not afraid
of the pops ex-
communication.

The clause, *Auctoritate Apostolica*, usually put into the popes bulls or decrees, reiected in France.

dicted : which was afterward by seuen popes successiue confirmed, viz. by *Gregory* the viij. ix. x. xj, *Clement* the fourth, *Urban* the fift, and *Benedict* the twelfth; whose bulls yet remaine in the records of Fraunce : which yet seeme vnto me not to encrease, but rather to diminish the maiestie of our kings, who were neuer in any thing beholden vnto the popes. And that more is, the court of parliament of Paris, hath by many decrees declared that clause; *Auctoritate Apostolica*, By the authoritie Apostolicall : vsually inserted into the popes rescripts sent into France, to be void, meere abusine, and to no purpose : and therefore it behoueth him, that would helpe himselfe by any such the popes rescript, to protest in iudgement, That he would not any way take benefit of that clause. By all which things it is plainly to be vnderstood, not onely the kings, but the kingdome of Fraunce also, to haue bene alwayes free from all the popes power and commaund. For as for that which *Iohn Durand* himselfe a French writer, saith, That the French kings are subiect vnto the pope, so farre as concerneth their oath, it needeth no refuting; as by him written being bishop of Mende, and at such time as vnder the color of oathe ioined vnto contracts, the ecclesiastical iudges drew vnto themselves the hearing and determining of all matters : which their iugling craft was both by the kings edicts, and the decrees of the high courts of parliament, long since met withall, and taken away. But if the French king shall in his owne priuat name contract with the pope, he may voluntarily and of his owne accord bind himselfe vnto the popes iurisdiction; which we read to haue bene done by *Philip Valois*, at such time as he borrowed the summe of three hundred and thirtie thousand florines of gold, of pope *Clement* the sixt, which is an ordinarie clause in all obligations, in which sort the pope himselfe might aswell as a priuat man be bound also. But this money the pope may seeme also not to haue lent without reward; but beeing himselfe of the house of *Turene*, it may be thought that he for this summe so lent, procured of the king the great priueleges which the counties of *Turene* yet at this day enioy. Yea but I know some to pretend, that the French kings ought to receiue their royall crowne at the hands of the pope : for that king *Pipin* so receiued it at *Saint Denise* in Fraunce, of pope *Zacharie* : as though one act in discontinued solemnities, and of so great consequence, could giue a right, or establish a perpetuall law : which it cannot do in the getting of the least discontinued seruice; but by the prescription of 100 yeres : albeit that in truth the king leaueth not to bee king, without any coronation or consecration, which are not things of the soueraignty. And that no man can deny, but that if the donation of the exarchat of *Rauenna* & *Pentapolis*, one of the fairest countries of al *Italie*, be made by the kings of Fraunce vnto the popes, and the church of *Rome*; it is also holden of that crowne of Fraunce : seeing that the confirmation of the seignories so giuen, was requested of *Lewes* the Gentle, successour to *Charlemaigne* : which confirmation *Carolus Sigonius*, a most skilfull man in the antiquities of *Italie*, writeth himselfe to haue seene and read. Wherefrom a man may draw two most certaine arguments; The one, That the donation was made by the predeceffours of *Lewes* the Gentle : And the other that the soueraigntie of the seignories so giuen, was yet reserued. For otherwise there should not haue needed any of king *Lewes* his confirmation; considering that king *Pipin* had by law of armes wonne those territories from the emperours of *Constantinople*, & therefore might of right both giue them by himselfe so wonne, and also appoint lawes vnto them so by him giuen. Albeit that the *Constantinopolitan* emperour sent ambassadors into France vnto *Pepin*, to haue had him to haue infringed & reuoked the said donatiō : which they could not of him obtaine, but returned as they came; as is to be seene in the histories of *Floardus* and *Sigonius*. And that more is, *Augustinus Onuphrius* the popes chamberlaine, who had diligently searched all the *Vatican* records (speaking of the popes)

A popes) confesseth, that the exarchat of Rauenna, Romandiola, the duchie of Vrbini, and part of Tuscanie, were giuen to the Church of Rome. But hee speaketh not of that which I haue read in the extract of the Vatican register, *viz. Iohn*, surnamed *Digitorum*, to haue written in letters of gold, the donation pretended to haue bene made by *Constantine*: in the end whereof are these words, *Quam fabulam longi temporis mendacia finxit*; which words I thought not good in any thing chaunge: as being much stronger arguments than those of *Lau. Valla*, to conuince the lies of *Augustin Egubini*, who of purpose to deceiue, hath forged in Greeke the donation of *Constantine*, to giue it the more credit; whose deceit is easie to be refuted both by the manner of the stile; and the knowledge of antiquitie: and is sufficiently refelled by *Sigonius* and *Onuphrius* both Italians. Which is also well iustified by the epistle of pope *Iohn*, written in the yeare 876, who therein confesseth the great largeses and donations bestowed vpon the church of Rome by *Pipin*, *Charlemagne*, and his successours: and by the auintient marble table, which is yet to be seene at Rauenna, wherein are these words contained, *Pipinus Pius primus amplificandæ ecclesiæ viam aperuit, & exarchatum Rauennæ cum ampliss.* The rest of the inscription time hath defaced. And thus much concerning the greatnesse and soueraigntie of our kings.

I will not here touch the greatnesse and soueraigntie of the *Negus* of Æthiopia commonly called *Prester Iohn*, whome *Pau. Iouius* writeth to haue fiftie tributarie kings vnder him, or (to say better) gouernours of Prouinces, which yeeld vnto him not onely their ordinarie tributes, but also their fealtie and homage, and that in greater humilitie, than verie slaues do vnto their lords: as a man may see in the historie of *Francis Aluarez* a Portugall, who dwelt fixe yerres in Æthiopia, and yet neuerthelesse they are called kings without cause; because they be no absolute soueraignes, seeing that they be but tributaries, yeelding fealtie and homage vnto another man.

The princes
seruing the
great Negus of
Æthiopia no
kings nor louē-
raigns.

As for those princes which are no Christians, I haue nothing to say, for the small assurance we haue by the writings and reports of others, much differing among themselves. Yet neuerthelesse so it is, that in one chapiter of the Alcoron, it is expresly forbidden all the *Musulman* (that is to say the right beleeuing) princes, to call themselves lords, except their Caliph or great bishop their great prophet *Muhamed* his vicar. By meanes of which prohibition the Mahometan bishops haue vsurped absolute soueraigntie aboue all their princes, giuing kingdoms and principalities, to whome they thought good, in name and title of governments: which may be also the cause that no Musulman prince weareth a crowne vpon his head: albeit that before the most auintient kings of Asia and Africke did weare crownes. And namely *Ioiada* the high priest, hauing consecrated *Ios* king of Iuda, set a crowne vpon his head: But the Musulman princes think that chapter not to haue bene made by *Muhamed* their law giuer, but by their Caliphes, (who of many diuers corrupt Alcorans made but one, long time after the death of *Muhamed*, defacing the rest, and for the augmenting of their maiestie, to haue bene into their Alcoran by them inserted. But at such time as three of their great bishops had for the desire of soueraignty, at one time taken vpon them the name of the great Caliph, the princes of Persia, the Curdes, the Turkes, the Tartars, the Sultans of Ægypt, the kings of Marocco, of Fez, of Telenin, of Tanes, of Bugia, and the people of Zenetes, and of Luntunie, exempted themselves from the obeysance of the Caliphes, to hold their kingdoms in soueraignty: as also the kings of Tombut, of Guynee, of Gaoga, and other kings, which dwell more into the hart of Africke, who know not the Caliphes commaund, neither acknowledge any greater than themselves: except they which hold in fealtie and homage of the king of Portugall, as the kings of Calecut, of Malachie, of Cambar, and of Canor, whom they haue compelled so to do, and to pay

The Mahom-
taine princes
by their lawe
forbidden to cal
themselus lords
or ioueraigns.

Diuers Mahomi-
taine kings tri-
butaries vnto the
king of portuga!

them tribute; hauing also subdued all the sea coast of Africke, and of the East Indies, and almost in infinit number of places built fortresses; yea and in the island of Ormus euen vnder the nose of the Persian king, hauing built a most strong castle, and straitly exacting tribute and custome of such as passe that way, or chaunce to arriue in the Persian gulfe; and had done the like in the red sea, had not *Barnagas* gouernour of that coast, and the king of *Æthiopia* his subiect, cut the Portugals in peeces, and rased the fortresses which they had begun to build, vnder the colour of alliance and amitie contracted by *Lopes* ambassadour for the king of Portugall, with the king of *Æthiopia*, in the yere 1519. And yet for all that certaine it is, that the king of Portugall was of auncient time feudatarie or vassall vnto the king of Castile, and the kingdome of Portugall a member of the kingdome of Castile: which for the greater part holden by force by the Moores, was giuen to *Henrie*, brother to *Godfrey* of Buillon, in marriage with the base daughter of *Aphonsus* king of Castile: from whome are descended all the kings of Portugall, since this foure hundred and fiftie yeates, vnto *Henrie* the Cardinall, who last raigned: hauing (of long) exempted themselues from the soueraigntie of Castile, and holding diuers kings their tributaries and feudataries, of whome *Emanuel* was the greatest, and for his martiall prowesse amongst the rest most famous; who vanquished the aforesaid kings, and caused them to pay him tribute. For there are now no feudatarie kings in Asia, or Africa, which are not also tributarie; howbeit in auncient time the kings of Persia, and the Romans, hauing subdued kings vnto their empire, for most part made them to become their tributaries: as for such fealtie and homage as is of vassalls exacted, they knew not what it meant. For *Philip* the second, king of Macedon, being by the Romans overcome, they graunted him peace vppon condition, that he should pay them into their common treasure, a certaine yearly tribute; which *Persens*, *Philip* his sonne, afterwards refusing to pay, drew vpon himsele a great and heavy warre, to his owne vtter destruction. And yet oftentimes such tributarie kings had others tributarie vnto themselues, who had also power of life and death, and other roiall soueraignties ouer their owne subiects. So the kingdome of *Dauid* was contained within the bounds of Palestine, and yet he enforced the neighbour kings to pay vnto him tribute, his posteritie neuerthelesse not long after yeelding tribute vnto the *Egyptians*, and the *Assitians*. So the kings of Slauonia, and the Commonweale of Carthage vsed the like authoritie and right ouer the princes vnder their dominion, that the Romans exercised ouer them, enforcing them to bring their yearly tributes into their treasuries.

Yet is there difference betwixt a tribute and a pension: for a pension is paid in respect of fealtie, or in time of warres to receiue aid against our enemies: but a tribute is giuen, thereby to haue peace; howbeit that he which receiueth such a pension, commonly boasteth of it, as of a tribute: as the kings of England called the pension of fiftie thousand crownes, which *Lewes* the xj paid vnto them by the treatie of Piqueni, by the name of a tribute; vntill that *Elizabeth* the daughter of *Edward* king of England was married vnto *Charles* the eight, king *Lewes* his sonne. Howbeit that *Philip Comines* denyeth it to haue bene either pension or tribute; yet needes it must bee either the one or the other. So the Grand Signior calleth the German emperor his tributarie, for the pension which he payeth euerie yere for the peaceable enioying of a part of Hungarie. The Venetians also, the Genowayes, the Ragusians, the kings of Algiers and of Tunes, in his letters and in the conuentions of peace, he calleth by the name of his great friends and allies, but accounteth them indeed his tributaries. But the great Precep Tartar, who in auncient time was soueraigne of all the realmes from Volga to Boristhenes, held all the princes and lords of those countries as his vassalls and tributaries

Portugall of
auncient time
a member of the
kingdom of Castile.

Difference betwixt a pension
and a tribute.

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Aries, who not onely kneeled before himselfe, but stood before his ambassadours sitting: For so the Knez of Moscouie behaued himselfe before the ambassadours of this Tartar prince, and was therefore of other princes commonly called but by the name of a duke: howbeit that the dukes of Moscouie, for this and diuers other such indignities cast off the seruile Tartars yoke, in the yeare 1524. And the first that reuolted from them was *Basilus* the first, who called himselfe *The Great Chamberlaine of God, and King of Moscouie*: and so he which at this present raigneth, in despight that other princes tearme him but a duke, stileth himselfe *The Great Emperour*: as in truth he in power either excelleth, or is equall vnto the greatest kings his neighbours, excepting the kings of the Turkes: albeit that the right of soueraigne maiestie be not defined by the spaciousnesse of places, or the greatnesse of countries, as if that might make a prince either more or lesse soueraigne: as *Eumenes* being ouerthrowne, and hauing nothing left him of his owne more than the castle wherein he was besieged, yet when as he was to treat of peace with *Antigonius* king of Asia (who as he was in power, would also in honor haue seemed to haue bene his superiour) answered, That he *acknowledged no main greater than himselfe, so long as he had his sword in his hand.

The Moscouite
an absolute so-
ueraigne prince.

The notable say-
ing of Eumenes
to king Antigonus.

*Plutar. in Eumenes.

And yet among soueraigne princes there is a certaine prerogatiue of honour due vnto the more auncient Monarches and Commonweals, although they bee in wealth & power inferior vnto them that be more new or of later time: as we see amongst the xiiij Cantons of the Swissers, who are all soueraignes, acknowledging nether prince nor monarch in the world for their soueraigne: the Canton of Zurich in all their assemblies hath the prerogatiue of honour: For their deputie as a prince in the name of all the rest of the Cantons, receiuerh and dismisseth the ambassadours of other kings and Commonweals; and vnto him onely it belongeth to call a generall assemblee of all the states of the Cantons, and againe to dismiss the same; albeit that the Canton of Berne be much greater and stronger: Next vnto them of Berne, are Lucerne, and Vri, albeit that they are defended neither with wals nor ditches, no more than are the Schwits, and Vnderuald, which follow in order vnto them of Vri: then follow after them Zug, Glaris, Basill, Friburg, and Soleurre. Now haply a man may say; That this is done according to the time that euerie Canton entred into their alliance: which is not so; for by their treaties it appeareth, that the first that entred in that confederati-
Con and alliance were they of Vri, Schwits, Zug, and Vnderuald.

Degrees of ho-
nour among so-
ueraigne princes
being equall.

The order of the
Cantons of the
Swissers.

Sometimes also the more auncient Monarches and Commonweals lose their prerogatiue of honour; as when they put themselves into the protection of latter princes, or yeeld themselves tributaries: in which case it is most certaine, that they are alwaies lesse than the other into whose protection they put themselves, or vnto whom they pay tribute. As it chaunced almost to all kings and princes which sought the protection of the Romans: whereas others which were come into equall alliance with them, as the Hedui, were in their leagues called their confederats, their equals and brethren: and yet for all that, they in truth and effect were inferior vnto them in honour. And verily *Augustus* the emperour showed himselfe wonderfull ceremonious and difficult in the honours which he bestowed on kings and princes, allies and vnder the protection of the empire of Rome; making Tetrarques, inferior vnto Ethnarques, and these inferior vnto kings; and the more auncient allies of the Romans, superiours vnto the rest that came into their alliance after them. And albeit that the Romans in the flourishing time of their popular estate, seemed not much carefull of such ceremonies of dignitie and honour which is of kings and princes more regarded, yet did *Q. Martius Philippus* their ambassadour show himselfe therein curious: Who contending with *Perseus* king of Macedon, which of them shuld come ouer the riuer vpon the frontiers

Degrees of ho-
nour betwixt so-
ueraigne princes
being in alliance
together.

of Macedon, vnto the other : and *Perseus* for that he was a king, refusing to come ouer vnto the Roman ambassadour, the ambassadour yet by sweet speech drew him ouer : Which he did (as he said vnto the ambassadors of the allies and confederats there present with him) to show that the honour of the Romans was greater than that of the Macedonian kings ; who for all that would in nothing giue place vnto the Romans. Yet was there a greater cause than that, which *Martius*, or els *Linie* omitted, which was forthat *Philip* the father of *Perseus* had vpon conditions, receiued peace of the Romans and also paid vnto them tribute; which his father *Philips* act, if he had disliked, he should not haue medled with the kingdome: although that he was otherwise vnworthy thereof, who his father yet liuing, had aspired vnto his inheritance: and being but borne of a concubine, had slaine his brother borne in lawfull marriage. But after that hee ouerthrowne and vanquished by *Paulus Emilius*, had lost the hope of his kingdome, he writ letters vnto *Emilius*, generall of the Roman army, yet stiling himselfe a king: which his letters the Roman generall reiected, and would not vouchsafe to open them, except he first renounced his roiall dignitie, which can onely agree vnto him which hath a soueraigne power, subiect to no other princes commaund.

And for the same cause *Francis* the first the French king declared vnto Cardinall *Bibiene* the popes legat, that the pope his master ought not to suffer the emperour *Charles* the fift to call himselfe king of Naples and of Sicilie, seeing that he was but the Popes vassall. Whereof the legat gaue aduertisement vnto *Iulian Cardinall de Medicis*, who was afterwards pope; to the end that that title might haue beene rased, which as he certified him by his letters, was by the charters of fealtie, forbidden the kings of Naples to take: whereas for all that, in all the records which wee haue got out of the Vatican, that is not onely not forbidden, but the name and dignitie of the king of Naples and Sicilie expressely set downe, as namely in the inuestitures of *Charles* of France, of *Carobert*, and of *John*. So many times ambassadours euill instructed in their masters affaires, through ignorance commit therein many notable defaults. And by the same reason we should take the royall title of a king from the king of Bohemia, who holdeth his kingdome in fealtie and homage of the empire; and not for that it is so little, as many haue written, that it is for that cause no kingdome, which were to measure kings by the elne: but it is, for that the countrey of Bohemia was by the emperour *Fredericke* the first, for title of honour onely erected a kingdome, without preiudice vnto the right or soueraignetic of the empire. But to say truth, this title agreeth vnto none that is another mans vassall, nor hath nothing of his owne in title of soueraignitie. And it may be, that for this cause pope *Pius* the fourth gaue not the royall title to *Cosmus* duke of Florence, albeit that he would very gladly haue so done: whereof the emperour *Maximilian* the second, being by the French embassadour aduertised, not vnfitly replied, *Italia non habet regem nisi Casarem*: Italy hath no king but the emperor. Although that be to be vnderstood of the maiestie of the German empire (whereof the Florentine state dependeth) & not of the emperour, who is himselfe subiect vnto the estate of the empire: albeit that all christian princes giue him the prerogatiue of honor, next vnto the pope, whether it be for that he is chiefe of the German empire, or els hath got it by long prescription of time. So also next vnto the emperour, all other princes haue vsed to giue this prerogatiue of honour vnto the French kings; not only for the long possession thereof, but also for that in all the world (whether you looke among the Christians, or the Tartars, the Turkes, the Ethyopians, the Indians, or Barbarians) is not to be found so auntient a kingdome, or such a continuall discent of kings of the same stocke and line as is among the French kings. And therefore *Baldus* (being himselfe an Italian Lawyer and a subiect of the empire) sayth well, That the French king

The title of a king belongeth not vnto another mans vassall neither to him which holdeth nothing of his owne in soueraignitie. The maiestie of the emperour still impugned by this French author, and the French kings too much exalted.

A carieth the crowne of glorie aboue all the kings, who haue alwaies giuen him that preheminance of honour. And there is also yet extant an epistle of pope *Gregories* vnto king *Childebert*, the beginning whereof is this: *Quanto ceteros homines regia maiestas antecellit, tanto ceterarum gentium regna, regni vestri culmen excellit*: by how much the royall Maiestie excelleth other men, by so much doth the Maiestie of your kingdome excell the kingdomes of other nations. As in truth this prerogatiue is vnto him due: for the Germane emperours themselues cannot denie, but that the German empire was sometime a prouince and member of the auntient kingdome of Fraunce, conquered by the prowesse of *Charlemaigne* king of France, and power of the French nation: but afterwards rent againe from the same, being giuen in partition to *Lewes* of France, yongest son to *Lewes* the Gentle, at such time as *Charles* the Bauld the French emperour held the imperiall seat of the empire: Howbeit that yet neuertheless the Germane princes the *Othons*, by the graunt of the Roman bishops hauing got the imperial title, haue by litle & litle through the ignorance of our embassadours vsurped & taken vnto themselues this prerogatiue of honour aboue the French kings. As in like case the king of Spaine not many yeares agoe would haue preuented our kings embassadours: but was at the request of *M. Nouuaille*, ambassadour for the French king, by a decree of the Venetian Senat embarred so to doe, in the yeare 1558: and so likewise afterwards by a decree of the pope, giuen by the consent of all the colledge of Cardinals: where the pope said with a lowd and cleare voyce, That the French kings had bene alwayes the auntient protectours of the church of Rome, and that the fairest and fruitfullest prouinces of the kingdome of Spaine, had bene dismembred and rent from the kingdome of Fraunce: than which nothing could in that kind haue bene more truly spoken; for by our kings, the authoritie of the bishops of Rome hath bene deliuered from contempt, their wealth encreased, and their power confirmed. Wherein the pope also in some sort amended the errour committed in the councell of Trent; where *Mendoza* the Spanish ambassadour, preferring himselfe and taking place before the French ambassadour (which then was *M. Lansac*, assisted with the *M.M.* of *Fertier* & *Faut*) was to haue bin compelled to haue departed from the councell, or els to haue kept the auntient order of ambassadours, and so to haue followed the French ambassadours: who withstanding the Spanish ambassadors presumption, requested that he might not so inuert the order of the ambassadours: saying, that otherwise he would himselfe forsake the Councell, and cause the French bishops to depart thence also. Whereunto the Spanish ambassadour craftily answered, That as he would not go before the French ambassadour, so would he not be enforced to follow him; and so tooke his place by himselfe apart from all the rest of the ambassadours. Yet notwithstanding these two former decrees which I haue spoken of, the Spanish ambassadour not long after at Vienna in Austria, earnestly requested of the emperor, That he might goe in the same degree and order with the French ambassadour; or that they might at leastwise go formost by turnes (as did the Roman Consuls, who had the preheminance, the twelue sergeants, and power to commaund, successiue, each of them his day) which *Henrie* the second the French king hearing of, writ againe to his ambassadour, That prerogatiue of dignitie to be of so great moment and consequence, as that nothing therein was by him to be said or done more than he had commision for. And *Ferdinand* the emperor not willing to offend either the one or the other, thought it good to forbid them both from comming together, either vnto sermons or other publicke assemblies. The Senat of Polonia troubled with the same difficultie, thought it not good to preferre one ambassadour before another, neither to preferre them by turnes, or yet to make them equall: but decreed of all ambassadours in generall, that

Contention at the councell of Trent betwixt the Spanish and French embassadours about their places.

A good order for the auoiding of contention betwixt the ambassadours of great princes, for their places.

as euery of them first came into the frontiers of the kingdome of Polonia, so should they be first in order heard. And so accordingly *M. De Montluc* bishop of Valence (who for his wisdom and dexterity for manning of matters of estate, had bene fiftene times ambassadour) hauing by great celeritie preuented the Spanish ambassador, had also first audience; wherewith the Spanish ambassadour offended, would as then say nothing: as I haue vnderstood by *M. de Nouuaille* abbot of Belle-isle, a man of great honour and vertue; who then was also ambassadour into Polonia, as he now is at Constantinople. But before the yeare 1558, neuer Christian prince made question of the preheminence of the French ambassadours before them of Spaine: and namely the English men alwayes preferred them before the Spaniard; albeit that they had bene auntient allies and friends vnto the one, and enemies vnto the other. As after the death of queene *Marie*, in the chapter holden by the knights of the most honourable order of the Garter, vpon Saint *Georges* eue, in the yeare 1555, concerning the conferring of honours, it was decreed, That the French kings place should be about the rest, next vnto the prince on the right hand; where before was the place for Spaine, while king *Philip* was married vnto the queene. And the next day after being Saint *Georges* day, a day of great solemnitie vnto the knights of that order, a seat was accordingly reserved for the French king, on the right hand next vnto the prince: and another on the left hand for the king of Spaine, next vnto the emperours seat on the same side, being then emptie. And afterward in the time of *Charles* the ix, the queene of England caused to be sent vnto him the banner of Fraunce, of the same stuffe and greatnes that her owne was, as the king was aduertised by *M. de Foix* then his ambassador there; and in the roll or Catalogue of these knights, which is signed euerie yeare by the queene, the French kings name is euer the first, next vnto her owne.

The French preferred before the Spanish.

But to take away these difficulties and ielousies betwixt princes, about their honors, which are otherwise ineuitable and dangerous: it is declared in the xiiij article of the ordinances of king *Lewes* the xj, touching the order of knights, that they should be placed according to the time of their receiuing into the order, without prerogatiue of king or emperour. For euerie soueraigne prince who is neither tributarie, vassall, nor in the protection of another, may as seemeth vnto him best in his owne countrey bestow the prerogatiues of honour vpon whomsoever hee pleaseth, and to reserve the chiefe place vnto himselfe. We know right well that the Venetians, the Rhagusians, the Genowayes, the Moscouites, and the Polonians, are in league with the great Turk, and yet hath he alwaies giuen the prerogatiue of honour vnto the French king, calling him in his letters the Greatest, and the *Greatest among the most Great Princes of the Christians*: & stileth himselfe *The greatest of all Princes, and the chiefe Sarrach or Prince of the Musulmans*; that is to say, *Chiefe Prince of the right beleeuing or faithfull*, which last prerogatiue of honour the Christian princes themselues haue giuen him by their letters: and as for the first title it seemeth himselfe to haue taken it from the auntient emperours of Constantinople, who bare in their armes foure B. which we call *Fusils*, wherby these words are signified; ΒΑΣΙΛΕΥΣ ΒΑΣΙΛΕΩΝ, ΒΑΣΙΛΕΥΩΝ ΒΑΣΙΛΕΥΣΙ, that is to say *King of kings, reigning ouer kings*. Which was the title that the kings of Babilon in auntient time tooke vpon them also, as we may see in *Ezechiel*, who calleth the great king *Nabucodonosor* מלך מלכים that is to say, *King of kings*; for that all the kings of Asia were vnto him tributaries: after which the kings of Persia hauing overcome the kings of Asiria, as *Esdra*s writeth, vsed the same title: & after them the Parthian kings also, as *Dion* writeth, that *Phraates* the king of Parthia called himselfe *King of kings*. But neither feudatarie kings which hold all their territories of others; neither dukes, marquesses, counties, or other like princes can of right vse the title of soueraigne



The armes of the ancient emperors of Constantinople.

Maiestie,

A maiestie, but only of *his Highnesse, his Serenitie, or his Excellencie*, as wee haue before said. Wherefore seeing that princes Tributaries, and Feudaries, are not to be accounted absolute Soueraignes; neither they which are in the protection of others: let vs now speake of the true markes of Soueraigntie, thereby the better to know them who they be that be such.

CHAP. X.

¶ Of the true markes of Soueraigntie.



B Seeing that nothing vpon earth is greater or higher, next vnto God, than the maiestie of kings and soueraigne princes; for that they are in a sort created his lieutenants for the welfare of other men: it is meet diligently to consider of their maiestie and power, as also who and of what sort they be; that so we may in all obedience respect and reuerence their maiestie, and not to thinke or speake of them otherwise than of the lieutenants of the most mightie and immortal God: for that he which speaketh euill of his prince vnto whome he oweth all dutie, doth iniurie vnto the maiestie of God himselfe, whose lively image he is vpon earth. As God speaking vnto *Samuel*, of whome the people of Israel had vnadvisedly asked a king, *It is not thee* (saith God) *but me whome they haue despised.*

Soueraigne
princes God
his lieutenants
vpon earth.

C Now to the end that one may know him that is such an one (that is to say a Soueraigne prince) we must know the markes, which are not common vnto other subiects also: for if they were common vnto others, than should there be no soueraigne prince. And yet they which haue writ best of or concerning a Commonweale, haue not sufficiently and as it ought, manifested this point, than which none is more plentifull or more profitable in the discourse of a Commonweale: whether it were by them for flatterie, for feare, for hatred, or by forgetfulnesse omitted. For when *Samuel* had denounced him king whome God had before chosen, and consecrated him before the people, as if he had but come by chaunce; he is reported to haue writ a booke of the power and Soueraigntie of a king, which the Hebrew priests haue written to haue

D bene by their kings suppressed and rent, that so they might more freely tyrannise ouer their subiects. Wherein *Phi. Malancthon* in mine opinion is deceived, who hath thought those things which *Samuel* spoke vnto the people, concerning the crueltie or insolencie of tyrants, to belong vnto the right of soueraigne maiestie: Whereas hee in that his Oracion vnto the people, would haue reclaimed them from the alteration and innouation of the state, and to haue bene better aduised. *Will you* (saith he) *know the custome of tyrants? It is to take away the goods of their subiects, and to dispose of them at their pleasure; to take the tenth of their labours, to rauish other mens wiues, to take from them their children to abuse them, or to make of them their slaues:* For the word

How *Samuel* his
speech vnto the
people concern-
ing the power
of a king,
by them de-
maunded, is to
be vnderstood.

E *עושה* which hee vseth, signifieth not lawfull rights in that place, but mens customes and manner of doing. For otherwise the good prince *Samuel* should in all his speech be contrarie vnto himselfe: for in giuing of an account before the people, of the charge that God had giuen him ouer them; *Which of you* (saith he) *is it amongst you that can accuse me of euill, or say that I haue taken of him either gold or silver, or other present whatsoever?* Whereunto all the people with great applause and acclamation gaue him this prayse, *That he had neuer done them wrong, nor taken any thing of any person whomsoever.* Should then this good prince being of so great integritie, godlinesse, and iustice, as he is reported to haue bene of, haue pronounced the cruelties, insolencies, and adulteries of Tyrants, as lawes of Soueraigntie for princes to imitate? And amongst the

Greeks

Greekes there are none, who haue any thing written concerning the lawes of Soueraigntie, except *Aristotle*, *Polybius*, and *Dionysius Halicarnassens*, who haue writt with so great breuitie and obscuritie, as that they seeme rather to haue propounded the question, than to haue declared what was to be thought thereof, as not therein well resolved themselues. For there are (saith * *Aristotle*) three parts of a Commonweale, the one to take aduice and counsell, the other to establish magistrats and officers, and euery man in his charge, and the third to administer and execute iustice. Here (in mine opinion) or else no where he seemeth to speake of the right of Soueraigntie; for that a Commonweale can by no meanes receiue that diuision, as it were of the whole into parts, except the soueraigne gouernment were also spoken of. Nether hath * *Polybius* also determinatly defined or set downe the rights and marks of Soueraigntie: but in speaking of the Roman Commonwealth, he saith, That their estate was mixt of the Power royall, of the Aristocraticall gouernment, and the Popular libertie: seeing (saith he) that the people made lawes and officers; the Senat disposed of the prouinces and common treasure, receiued and dismissed ambassadours, and had the manning of the greatest affaires; the Consuls held the prerogatiue of honour, in royall forme and quality, but especially in warres, wherein they were all in all. Wherein it appeareth, that he hath touched the principall points of Soueraigntie, seeing that they vnto whom he attributeth the same, had the chiefe gouernment of the Commonwealth. But *Dionysius Halicarnassens* seemeth thereof to haue written better, and more plainly than the other. For he saith, That king *Seruius*, to take away power from the Senat, gaue power to the people, to make and abolish lawes, to determine of peace and warre, to place and displace officers, to heare the appeales of all the magistrats. And in another place speaking of the third trouble which happened in Rome, betwixt the nobilitie and the people, he saith, That *Marcus Valerius* the Consul showed vnto the people, that it ought to content it selfe, to haue the power to make lawes, to chuse officers, to receiue appeales from all the magistrats, and so to leaue the rest vnto the Senat. Since which time the lawyers haue amplified these rights, and they of later time, much more than they before them, in the treatises which they call *The rights of Regaltie*, which they haue filled with an infinit number of particularities, such as are common vnto dukes, counties, barons, bishops, officers, and other subiects of soueraigne princes: in such sort that they call dukes soueraigne princes, as the dukes of Milan, Mantua, Ferrara, and Sauoy: yea euen some counties also dukes subiects, being all or most part blinded with this error, which hath in it a great appearance of truth. For who is there that would not deeme him to be a soueraigne, which giueth lawes vnto his subiects, which maketh peace and warre, which appointeth all the officers and magistrats of his countrey, which imposeth tributes, and at his pleasure easeth whome he seeth good: which hath power of life and death, and in brieft to dispose of the whole Commonweale. All which they before rehearsed, haue power to doe: and what more can a man desire in a Soueraigne prince? For all these are the marks of Soueraigntie. And yet neuerthelesse we haue before shewed that the dukes of Milan, of Sauoy, of Ferrara, of Florence, and of Mantua, hold all of the empire: and that the most honourable title that they haue, is to be princes and deputies of the empire: we haue also said that they haue their inuestiture from the empire: and that they yeeld their fealtie and homage vnto the empire: in brieft that they are naturall subiects of the empire, and borne in the territories subiect vnto the empire. Then how can they be absolute soueraignes? For how should hee be a soueraigne, which acknowledgeth the iurisdiction of another greater then himselfe? of one which reuerfeth his iudgements, which correcteth his lawes, which chastiseth himselfe, if he commit abuse? We haue before shewed that *Galeace* the first, vi-

* *Arist. li. 4. de Repub.*

* *Polyb. lib. 6. de militari ac domestica Rom. disciplina.*

* *Dionys. Halicarn. lib. 4.*

* *Lib. 7.*

A probable error.

The dukes of Milan, Sauoy, Ferrara, and Florence, with such other like great princes no soueraignes: and the reasons why

- A** count of Milan, was accused, attainted, conuincd, and condemned of treason by the emperour, for hauing without leaue rayfed taxes vpon his subiects, and that hee therefore died in prifon. And if any of them fhall contrarie vnto the lawes, by force, fuffurance, or by vfurpation take vpon them the foueraigntie; are they therefore foueraigns? or fhall they prefcribe againft the fealtie and obedience which they owe vnto their prince? Seeing that they confefle themfelues but princes and deputies of the empire. They muft then renounce the titles of princes and dukes, of *Hignefle* and *Excellencie*, & ftile themfelues kings, to vfe the title of foueraigne maieftie, which they cannot doe, without reuolting from the empire; as did *Galuaño* vicount of Milan, who therefore endured the grieuous punifhment of his rafhneffe. We haue alfo fhewed that the cities of Lombardie were fubieft vnto the empire. In brieft we had declared alfo the intollerable abfurdities that fhould enfue, if the vaffals fhould be foueraignes, efpecially when they haue nothing but what they hold of another: and that this were nothing elfe but to make the fubieft equall with his lord, the feruant with his maifter: he that receiue the law, with him that giueth the law, him that oweth his obedience vnto him that is to commaund, which feeing they are things impoffible, wee may well conclude that dukes, counties, and all they which hold of another man; or that receiue law or commaundement from another, be it by force, or otherwife by contract, are in no wife foueraignes.

- The fame opinion we haue of the greateft magiftrats, of kings Lieutenants general, **C** *Gouernours*, *Regents*, and *Dictators*; what power foener they haue, if they be bound vnto the lawes appeales, and commaund of another man, they are not to be accounted foueraigns. For it behoueth that the markes and recognifances of foueraigntie be fuch, as that they cannot agree to any other, but to a foueraigne prince: for otherwife if they be to be communicated with fubiefts, a man cannot fay them to be the true markes of foueraigntie. For as a crowne if it be broken in peeces or opened, loofeth the name of a crowne; fo foueraigne maieftie loofeth the greatneffe thereof, if any way bee opened to tread vnder foot any right thereof; as by communicating the fame with fubiefts. And for this caufe in the exchange made betwixt king *Charles* the fift, and the king of Nauarre, for the territories of Mante and Meullan, with Montpellier, wherein the royall rights are articulated, they are faid all wholly and alone to belong vnto the king. It is **D** alfo by the common opinion of the lawyers manifelt, that thofe royall rights cannot by the foueraigne be yeelded vp, diftracted, or any otherwife alienated; or by any tract of time be prefcribed againft: and therefore *Baldus* calleth them *Sacra Sacrorum*, of Sacred things the moft Sacred: and *Cynus* *Indiuidua*, things infeparable, or not to bee diuided. And if it chance a foueraigne prince to communicat them with his fubieft, he fhall make him of his feruant, his companion in the empire: in which doing he fhall loofe his foueraigntie, and be no more a foueraigne: for that he onely is a foueraigne, which hath none his fuperiour or companion with himfelfe in the fame kingdome. For as the great foueraigne God, cannot make another God equall vnto himfelfe, **E** confidering that he is of infinit power and greatnes, and that there cannot bee two infinit things, as is by naturall demonstrations manifelt: fo alfo may wee fay, that the prince whom we haue fet down as the image of God, cannot make a fubieft equall vnto himfelfe, but that his owne foueraigntie muft thereby be abafed; which if it be fo, it followeth that the adminiftration of iuftice, which *Aristotle* maketh the third part of a Commonweale, is not the true marke of foueraigntie; for that it indifferently agreeth almoft to all magiftrats afwell as to the prince: neither in like fort to make or difplace officers; for that the prince and the fubieft haue both this power; not only in appointing the officers feruants at home, and in time of warre, but euen of the officers,

The greateft magiftrats or lieutenants no foueraigns.

A fit comparison.

Soueraigntie admitteth no companion or pertaker therein.

and magistrats themselves, which commaund in peace or in warre. For we read that the Consuls, in auncient time created the militarie Tribunes, who were as marshals in the armie, and he whome they called the Interrex created the dictator, and the dictator appointed the collonel of the horsemen: & in euery Commonweale where iustice is giuen with fees, the lord of the fee may at his pleasure appoint officers, and without cause displace them againe, if they haue not their offices in recompence of some their deserts. The same opinion we haue of punishments and rewards, which magistrats or captaines inflict or giue vnto them that haue deserued the same, aswell as the soueraigne prince. Wherefore it is no true marke of Soueraigntie to giue reward, or to inflict punishment vnto such as haue so deserued, sith it is common both to the prince and the magistrat: albeit that the magistrat haue this power of the prince. It is also no marke of Soueraigntie to haue power to consult of the affaires of the state, which is the proper charge of the priuie Councell, or Senat of a Commonweale; which is alwayes diuided from him which is therein soueraigne; but especially in a popular estate where the soueraigntie lieth in the assemblie of the people, which is alwaies an enemy vnto wisdom and good councell. Whereby it is to be perceiued, not any one thing of those three wherein *Aristotle* said a Commonweale to consist, to be the true marke of Soueraigntie.

As for that which *Dionysius Halycarnassens* saith of *Marcus Valerius* the Consull, in the Oration which he made vnto the people of Rome, for the appeasing of the troubles then risen betwixt the Senat and them; That the people ought to content themselves to haue the power to make lawes and magistrats; that is not sufficient to declare a Soueraigntie of power in them, as I haue before declared concerning the magistrats. Yea the power to make lawes is not the proper marke of Soueraigntie, except we vnderstand thereby the soueraigne princes lawes; for that the magistrat may also giue lawes vnto them that are within the compasse of his iurisdiction, so that nothing be by him decreed contrarie to the edicts and lawes of his soueraigne prince. And to manifest this point, we must presuppose that this word *Law*, without any other addition, signifieth *The right commaund of him or them, which haue soueraigne power aboue others, without exception of person*: be it that such commaundement concerne the subiects in generall, or in particular: except him or them which haue giuen the law. Howbeit to speake more properly, *A law is the commaund of a Soueraigne concerning all his subiects in generall*: or els concerning generall things, as saith *Festus Pompeius*, as a priuilege concerneth some one, or some few: which law if it bee made by the priuie counsell, or Senat of a Commonweale, it is called *Senatus consultum*, as the priuie counsell: or decree of the Senat. But if the vulgar people made any such commaund, it was called *Plebiscitum*, that is to say, The commaund of the meniall people: which after many seditions and sturs, betwixt the Nobilitie and the common people, was in the end called a law. For the appeasing whereof all the people in the assemblie of the great estates, at the request of *M. Horatius* the Consull made a law, that the Nobilitie and the Senat in generall, and euerie one of the people in particular, should bee bound to keepe the decrees and lawes which the common people should make, without appealing therefrom; or that the Nobilitie should haue any voyce therein. But forasmuch as the nobilitie and the Senat made small account of such the peoples decrees and ordinances; the aforesaid law was afterward renewed, and againe published, at the instance of *Q. Hortentius* and *Pub. Philo* Dictators: From which time forward such the peoples decrees were no more called *Plebiscita*, but simply laws, whether they concerned euery man in particular, or all men in generall. As for the commaundements of the magistrats, they were not called lawes, but onely edicts. For an Edict (as

What lawe properly is.

The difference betwixt *Senatus consultum*, and *Plebiscitum*, a decree of the Senate and of the people.

M. Varro

A *M. Varro* defineth it) is the commaund of a *Magistrat*; which his commaund bound none, but them which were of his owne iurisdiction; provided alwaies that such his comands were not contrary vnto the ordinances of the great magistrats, or to the laws and commaundements of his soueraigne prince, and were no longer in force than the magistrat pleased, or had charge. And for that all the magistrats were annuall in the Roman Commonweale, there edicts had not force but for one yeare at the most. And therefore they which succeeded in the same office, were either to allow or reuoke the edicts, by their predecessors before made: & if so be that they were against the laws, or for longer time than the magistratie of him that made them, then were they to none effect: which when *C. Verres* did, he was in these words accused by *Cicero*, *Qui plurimum (inquit) edicto tribuit, legem annuam appellat, tu plus edicto complecteris, quam lege*. They that attribute most (saith he) vnto an edict, call it but an annual law; but thou comprehendest more in an edict, than in a law. And for that the emperor *Augustus*, hauing oppressed the liberty of the comonweal, called himself but *Imperator* (that is to say chief captain & Tribune of the people) he called also his own decrees by the name of edicts: but such as the people made at his request, he called them *Leges Iulie*; which maner of speech the other emperors after him vsed also; in such sort, that this word Edict, is by little & litle taken for a law, especially when it commeth out of the mouth of him which hath a soueraigne power; be it for one, or for al, be it an edict perpetual or onely prouisionall. Wherefore they abuse the words, which call edicts which are proper vnto magistrats by the name of laws: but in what sort soeuer that it be, there are none but soueraigne princes, which can giue laws vnto their subiects, without exception, be it in generall or in particular. But here might some man obiekt. That the Senat of Rome had power to make laws, & that the more part of the greatest affaires of estate, in peace or war, were in the power of the Roman Senat to determine of. But what the authority of a Senat is, or ought to be in euery Commonweale, we shal in due place declare. But by the way to answere that that is obiekted, I say, that the Senat of Rome, from the expulsion of the kings, vntill the time of the emperours, had neuer power to make law, but onely certaine decrees and ordinances: which were not in force past a yeare, wherewith for all that the common people were not bound, and so much lesse the whole body and estate of the people. Wherein many are deceiued and especially *Conan*, who saith, That the Senat had power to make a perpetuall law: for *Dionysius Halycarnassensis*, who had diligently read the Commentaries of *Marcus Varro*, writeth, That the decrees of the Senat had not any force, if they were not by the people confirmed: and albeit that they were so confirmed, yet if they were not published in forme of a law, they then had force but for one yeare. No more than the citie of Athens, where the decrees of the Senat were but annuall, as saith *Demosthenes* in the Oration which hee made against *Aristocrates*: and if it were a matter of importance, it was referred vnto the people to dispose thereof as they thought good: which *Anacharsis* the philosopher seeing merly said, *The wise and graue propound matters at Athens, and foolcs and madmen resolute thereof*. And so the Senat in Rome did but consult, and the people commaund: For so *Liue* oft times saith, *Senatus decreuit, populus iussit*; The Senat hath decreed, and the people commaunded. Yet true it is, that the magistrats, and namely the Tribunes, oft times suffered the decrees of the Senat, in a maner to haue the force of lawes, if the matter seemed not to impaire the power of the people, or to be preiudiciall vnto the maiestie of the estates in generall. For so properly the auncient Romans said * *Imperium in magistratibus, auctoritatem in Senatu, potestatem in plebe, maiestatem in populo inesse dicebant*, Commaund to be in the magistrats, authoritie in the Senat, power in the meniall people, and maiestie in the people in generall. For the word

What an edict is.

That the senate of Rome had no power to make lawes, but annuall decrees only.

A pretie quip of Anacharsis.

* *Cicero pro Roscio Perduellionis reo.*

Maiestie proper
only vnto a so-
ueraigne prince.

Maiestie, is proper vnto him which stirreth the helme of the soueraigntie of a Com-
monweale. And albeit that the law Iulia concerning maiestie made by the people at
the request of *Augustus*, hold him guilty (*Lesa maiestatis*, or as we say) of treason, which
striketh a magistrat in the execution of his office: and that sometime the Latine histo-
riographers, yea and the lawyers themselues also gine the title of maiestie vnto the
Consull and Pretor; as in saying, *Maiestatem consulis*, *maiestatem pratoris*, The maie-
stie of the Consull, the maiestie of the Pretor: yet is it but improperly spoken, neither
by our lawes is he guiltie *lesa maiestatis*, that hath hurt a prince, a duke, a countie, or a
magistrat: but he onely that hath violated the person of a soueraigne prince. And
so by the lawes of *Sigismundus Augustus* king of Polonia, made in the yeare 1588, it is
set downe that the crime *Lesa maiestatis*, should take no place further than his owne
person; which is according to the true signification of *lesa maiestas*. And for this cause
it seemeth that the dukes of Saxonie, of Bauaria, of Sauoy, of Lorraine, Ferrara, Flo-
rence, and Mantua, put not into their stiles of honour, this word *Maiestie*, contenting
themselues with the title of *Hignesse*: and the duke of Venice with the addition of
his *Serenitie*, who (to speake properly) is but a verie prince, that is to say, the first, for hee
is nothing else but the first of the gentlemen of Venice: and hath no more aboute
the rest of the Senators, than the chiefe place and dignitie of the Commonweale in all
their assemblies, wherein he sitteth as chiefe; and the concluding voyce into what cor-
poration or colledge he come, if there be any question of voyces. And as in Rome the
edicts of the magistrats bound euery man in particular (so that they were not contrary
to the decrees of the Senat) and the decrees of the Senat in some sort bound the magi-
strats (if they were not contrarie to the ordinances of the common people) and the or-
dinances of the common people were aboute the decrees of the Senat; and the law of
the whole bodie and estates of the people, was aboute all the rest: euen so in the Ve-
netian Commonweale, the decrees of the magistrats bind euerie man in particular, ac-
cording to the precinct and iurisdiction of euerie magistrat: but the corporation and
colledge of the Decemviri is aboute particular magistrats: the Senat is aboute the De-
cemviri, and the great Councell (which is the assemblie of all the gentlemen of Venice)
hath the power of soueraigntie, containing the Senat, and all the rest of the magistrats,
within the power of the commaund thereof, in such sort, that if the Decemviri bee di-
uided with euen voyces, they appeale vnto the councell of the Sages, consisting of xxij,
who if they cannot agree, the Senat is assembled, and if the matter concerne the high
points of soueraigntie, as is the maiestie of the Commonweale, then it is referred vnto
the great Councell. And therefore when any thing is decreed by the Decemviri these
words are ioyned vnto the decreet, *In consilio Di Dieci*: whereunto if the colledge of
Sages be ioyned, there is also commonly added, *Con la Giunta*, but if it be a decree of
the Senat, it is declared in these words, *In Pregaudi*: but if it be in the great assemblie of
the gentlemen of Venice, these words are commonly adioyned thereunto, *In Consig-
lio Maggiore*. For in these three corporations or colleges, are almost all things dispat-
ched which belong vnto their lawes, their customes, and Commonweale, except such
matters which the Septemviri (the most secret councell of the State) vse by themselues
to determine. It is therefore but by sufferance that the Decemviri or the Senat make
decrees and ordinances, which for that they are found iust and reasonable, they passe
sometime into the force of law, as did the edicts of the auntient Roman Pretors, which
if they were equall and iust, their successours kept them: and so by tract of time were
receiued as lawes; yet for all that was it alwayes in the power of the new Pretors to
make others: neither were they bound to obserue or keepe them of their predecessors.
But *Iulian* the lawyer gathered a great number of such of these edicts of the former
Pretors

The duke of Ve-
nice no soue-
raigne prince.

The order of the
Venetian Com-
monweale.

Magistrats edicts confirmed by him or them that haue the soueraignie become lawes.

A Pretors, as he thought best, and after that he had interpreted them, and brought them into ninetie bookes, he gaue the same vnto the emperor *Adrian* for a present; who in recompence of so great a worke, made him great Prouost of the citie of Rome, and thereby made way for his nephew *Didius Iulianus*, afterwards to aspire vnto the Roman empire. *Adrian* himselfe also perswaded the Senat, that not onely the edicts which *Iulian* had gathered, but other his owne writings should bee taken for lawes; which he confirmed also by his authoritie, and yet neuertheless still held the name of edicts, which hath deceiued many, who haue accounted those lawes as Pretors edicts. So also *Iustinian* the emperor, to the example of *Adrian*, by decree commaunded many things which the lawyers had after *Iulian* written vnto the Pretors decrees (after they had bene by him as he thought good corrected) to be receiued for laws, the name of edicts still remaining, being yet indeed nothing lesse than edicts, but lawes as well as those which euery soueraigne prince in his owne Commonweale by the decrees of his lawyers and courts, hath commaunded to be receiued for lawes; as it oft cometh to passe in this realme, that the kings seeing diuers ordinances and decrees of parliament most equall and iust, haue confirmed the same, and caused them to be published, and to passe in force of lawes; to show that the power of the law lyeth in him that hath the soueraignie: and which giueth force vnto the law by these words, *Sancimus Iubemus*, We ordaine and commaund; which are words proper vnto soueraigne maiestie, as saith the Consull *Posthumus*, in the oration which he made vnto the people, *Nego iniussu populi quicquam sanciri posse, quod populum teneat*, I deny that any thing can bee ordayned without the peoples commaund, that can bind the people. The magistrat also presenting his request vnto the people, for the enacting of a law, commonly began with these words, *Quod bonum, faustum, felixque sit vobis ac Reipub. velitis, Iubeatis*. Will you, and commaund you, that which may be good, happie, and fortunat, to you, and the Commonweale. And in the end of the law are still these words, *Si quis aduersus ea fecerit, &c.* If any man shall do against these things, &c. Which they called *Sanctio*, that is to say an ordaining or enacting, declaring the punishments or rewards due vnto them that should keepe or breake the law: which are speciall formalities and proper vnto the maiestie of them which had the power to make the law; but neuer vsed by the Senat in their decrees, nor by the magistrats in their edicts. Ioyne hereunto also, that the penaltie annexed vnto the lawes of a soueraigne prince, is farre different from that which is ioyned vnto the decrees or ordinances of magistrats, or of corporations and colledges, which haue certaine limited penalties and fines, for the most part concluded by a mercement or forfeit of money; or with whipping chere: For there is none but the soueraigne prince, which can vnto his edicts ioyne the paine of death, as it hath bene also forbidden by an auntient act of parliament, and the clause of arbitrarie punishment ioyned vnto the ordinances and decrees of magistrats and gonerours, which euer inclusiuely extended vnto death.

E Wherefore let this be the first and chiefe marke of a soueraigne prince, to bee of power to giue lawes to all his subiects in generall, and to euerie one of them in particular, (yet is not that enough, but that we must ioyne thereunto) without consent of any other greater, equall, or lesser than himselfe. For if a prince be bound not to make any law without consent of a greater than himselfe, he is then a verie subiect: if not without his equall, he then hath a companion: if not without the consent of his inferiours, whether it be of his subiects, of the Senat, or of the people, hee is then no soueraigne. And as for the names of Lords and Senators, which wee oftentimes see ioyned vnto lawes, they are not therewith set as of necessitie to giue thereunto force or strength, but to giue vnto them testimonie and weight, as made by the wisdom and discretion of

The first and chiefe marke of soueraignie.

the chiefe men, so to giue them the better grace, and to make them to bee the better re-
ceiued; and not for any necessitie at all. For we find the most auncient edicts of Saint
Denys in Fraunce, of *Philip* the first, and of *Lewes* the Grosse; whereunto the names
and seales of the *Queenes Anne* and *Adella*, as also of *Robert* and *Hugh* are annexed:
And namely in the twelfth yeare of the raigne of *Lewes* the Grosse, and of *Adella* the
sixt.

It belongeth on-
ly vnto soue-
raigne princes
to grant priuile-
ges, and what a
priuilege is.

* *Cicero pro do-
mo sua et post res
assum in Senatu.*

Now when I say that the first and chiefe marke of Soueraigntie is for the prince to
be of power to giue lawes vnto all his subiects in generall, and to euerie one of them
in particular: these last words concerne priuileges, which only belong vnto soueraigne
princes to graunt, and particularly to others, to whome they be graunted. A priuilege
I call a law made for one, or some few particular men: whether it bee for the profit or
disprofit of him or them for whome it is graunted. For so speaketh *Cicero*, *Priuilegi-
um de meo capite latum est*, A priuilege was made concerning my life, he meaneth the
law made against him by the common people at the motion and instigation of *Clodius*
the Tribune, (to haue him called to account for certaine citizens put to death con-
trarie to their appeale, about the conspiracie of *Cateline*) which he in many places cal-
leth *Lex Clodia*, or a Law made by *Clodius*, whereof he oftentimes most grieuously
complained, both in the Senat and before the people, saying, That by the law of the .xij
Tables it was forbidden any priuileges to be graunted, but *Comitij Centuriatis*, that is
to say, in the generall assembly of the whole bodie of the people. For so be the words
of the law, *Priuilegia nisi comitij centuriatis ne irroganto; qui secus faxit capital esto*, Pri-
uileges let them not be graunted but in the greatest assemblies of the people; and hee
that shall otherwise do, let it be vnto him death. As for such priuileges as bring profit
and commoditie to them to whome they be graunted, they are more truly called be-
nefits. And in this all that haue written of Royalties agree, that it belongeth not to
any, but vnto a Soueraigne, to graunt priuileges, exemptions, immunities, and to dis-
pence with the edicts and ordinances of other former princes: howbeit that priuile-
ges in monarchies haue not bene vsed, but onely for the tearme of the life of the mo-
narch himselfe that graunted them: as *Tiberius* the emperour made them all to know
which had obtained any priuileges from the emperour *Augustus*, as *Suetonius* writeth.
But now if any shall object vnto me, the magistrats themselues to discharge men oftentimes
of the lawes: and the Senat of Rome to haue so oftentimes done. I will aun-
swere him as did *Papinian* the lawyer, *That we are not to consider what is done at Rome,
but what ought indeed to be there done*. For by the tribunitiall law *Cornelia*, the Senat
is forbidden to discharge any Roman of the lawes, except there were two hundred of
the Senators present: which exemption from the laws seemeth also to haue bene gran-
ted vnto the Senat, by reason of the difficult assembling of the whole people.

But some man may say, that not onely the magistrats haue power to make edicts
and lawes, euerie one according to his authoritie and iurisdiction, but also that particu-
lar men make customes, both generall and particular. Which customes haue almost
the force of lawes, and yet depend not of the iudgement or power of the soueraigne
prince, who as he is maister of the law, so are particular men maisters of the customes.
Whereunto I answere, that custome by little and little take force; and in many yeres
by the common consent of all or most part; but the law commeth forth in a moment
and taketh strength of him which hath power to commaund all: custome creepeth
in sweetly and without force, whereas the law is commaunded and published with
power, yea and oftentimes contrarie to the good liking of the subiects. For which
cause *Dion Chrysostome* compareth the law to a tyrant, and custome to a king. More-
ouer the power of the law is much greater than the power of custome: for customes
are

The difference
betwixt the be-
ginning of cust-
omes and lawes:
and that both
of them depend
of the power of
the soueraign
prince.

Are by lawes abolished, but not lawes by customes; it beeing alwayes in the authoritie and power of the magistrat againe to put in execution such lawes as are by custome almost out of vse. Custome also propoundeth neither reward nor punishment; whereas the law alwayes carrieth with it either the one or the other, if it be not a law permissiue, which easeth the penaltie of another law: and in brieue custome hath no force but by sufferance, and so long as it pleaseth the soueraigne prince, who may make thereof a law, by putting thereunto his owne confirmation: whereby it is to be seene, that all the force of lawes and customes lieth in the power of him that hath the soueraigntie in a Commonweale.

B This then is the first and chiefeſt marke of Soueraignty, to be of power to giue lawes and commaund to all in generall, and to euerie one in particular; which cannot be communicated vnto subiects. For albeit that a soueraigne prince giue power to any one to make lawes, of such strength and vertue as if he himſelfe had made them: as did the people of Athens to *Solon*, and the Lacedemonians to *Lycurgus*: yet were these lawes neither the lawes of *Solon* nor *Lycurgus*, who were but as commissioners and procurators for them which had giuen them that charge; but they were the lawes of the Athenians, and Lacedemonians: neither had these lawes had any force, had not the people by their consent authorised the same. They indeed wrot those lawes, but the people commaunded them; they composed them, but the people enacted them. And almost alwayes in a Popular or Aristocraticall state, the lawes tooke name of him which propounded or engrossed the same, who was nothing els but the simple procurer thereof: the confirmation of the same being from him which had the soueraignty. So when the Decemviri by the people created at Rome for the making of lawes without appeale, had sent ambassadours into Greece, to amplifie their lawes, and in xij tables comprehended the best of them, they commaunded all the people to bee called together, to behold and consider of those lawes publikely set vp: and so at length after three Faire dayes (the vsuall time appointed for the establishing of laws) the people in their greaTEST and generall assembly, commaunded, or rather enacted them to stand for laws. But vnto what power it belongeth to make a law, vnto the same also it appertaineth to abrogat or derogat from the same. Vnder this power of making & of abrogating of the law, is also comprised the declaration & correction of the same, when it is so obscure, that the magistrats vpon the cases propounded find contrarietie or intollerable absurdities, yet may the magistrat according vnto right and reason also interpret the laws, & encline them either vnto lenitie or seueritie: so that he beware that in bending them too much, he breake them not; yea although that they seeme vnto him hard or vniust: but let him heare what *Vlpian* saith, *Dura lex, sic tamen scripta est*, An hard law (saith he) but so it is written: which if the iudge shall presume vnder the colour of equitie to breake, he is by the law condemned of infamie. So ought the law called *Latoria*, (or rather *Pratoria*) to be vnderstood, which *Papinian* reciteth, without naming of the author. Wherby it is permitted vnto the Great Prator of the citie of Rome, to supply, to correct or amend the laws: which must (as we said) be moderately & in a measure done: for if a man should otherwise vnderstand it, it should thereof follow, that a simple magistrat should be about the lawes, if hee might at his will and pleasure alter and infringe the same: and also that he might bind both the people and the prince vnto his edicts; which we haue before showed to be a thing impossible.

E Vnder this same soueraignty of power for the giuing and abrogating of the law, are comprised al the other rights & marks of soueraignty: so that (to speak properly) a man may say, that there is but this only mark of soueraigne power, considering that all other the rights thereof are contained in this, *viz.* to haue power to giue lawes vnto all and

That the power to make lawes cannot be vnto subiects communicated.

What power the magistrat hath to interpret the lawe.

All the other markes of soueraignty contained vnder this first.

Other the marks
of Soueraigntie

euerie one of the subiects, & to receiue none from them. For to denounce warre vnto the enemy, or to make peace with him, although it seeme to be a thing different from the name of the law, yet is it manifest these things to bee done by the law, that is to say by the commaundement of the soueraigne power. So also is it proper vnto soueraigne maiestie, to receiue the subiects appeales from other, and the greatest magistrats, to place and displace the greatest officers, charge or exempt the subiects from taxes and subsidies, to graunt pardons and dispensations against the rigour of the law, to haue power of life and death, to encrease or diminish the valour and weight of the coyne, to giue it title, name, and figure: to cause all subiects and liegemen to sweare for the keeping of their fidelitie without exception, vnto him to whome such oath is due: which are the true markes of soueraigntie, comprised vnder the power of being able to giue a law to al in generall, and to euery one in particular, and not to receiue any law or commaund from any other, but from almightie God onely. For a prince or duke who hath power to giue lawes vnto all his subiects in general, & to euery one of them in particular, is yet no soueraigne, if he receiue his power from the emperour, the pope, or the king, or any other greater than himselfe: or yet haue a companion in his gouernment, a companion I say, for that he seemeth in a manner to haue a superiour or maister, which hath a companion, without whose helpe and consent hee can commaund and doe nothing: much lesse is he a soueraigne, if hee bee another mans lieutenant or deputie.

The second
marke of Soue-
raigntie.

But forasmuch as the word *Law*, is too general a marke, it is the more expedient particularly to specifie the rights of Soueraigntie, comprised (as I haue said) vnder that soueraigne law; as to denounce warre, or treat of peace, one of the greatest points of soueraigne maiestie: for that oftentimes it draweth after it the ruine, or assurance of a Commonweale; which is to be verified not onely by the law of the Romans, but of al other nations. And for that there was more daunger to be feared from warre, than from peace, it was lawfull for the common people of Rome, to commaund peace, but if question were for making of warre, it might not be decreed, but in the greatest assembly of all the states together, vntill such time as that the meniall people had also full power to make lawes. And therefore was it that warre was decreed against Mithridates by the law *Manilia*, against the pirats, by the law *Gabinia*, against *Philip* the second, king of Macedon, by the law *Sulpitia*: peace was also made with the Carthaginians, by the law *Martia*. And for because *Cesar* had without commaund of the people made warres in Fraunce, *Cato Uticensis* was of opinion in the Senat, that the armie was to be called home, and *Cesar* for his presumption deliuered vnto the enemy. In like case the estates of the people of Athens determined of warre and peace. As a man may see by the war by them decreed against the Megarians, against the Syracusians, and against the kings of Macedon. I here but briefly set downe certaine examples of two of the greatest and most famous popular Commonweales that euer yet were: For in a regall state there is none (as I suppose) which doubt all the power of peace and warre to be in the king: insomuch as that for any man to attempt euen the least thing therein without the kings commaund, is vnto the dooer thereof dangerous, if the king might thereof haue before bene aduertised: and what charge soeuer that they giue vnto their deputies or commissioners, to entreat of peace or of alliance, yet consent they vnto nothing, without the aduertising of the king; as was to be seene in the last treaty of Cambray, betwixt the French king & the king of Spain; the commissioners on the kings behalfe writ to him from howre to howre, the whole proceedings both of the one part and of the other. But in popular or Aristocraticall estate, we oft times see that after the warre is once denounced, it is then managed by the aduise of the Senat, or priuie

- A priuie counsell onely: yea and sometimes by the aduice of one onely captaine also: for that nothing is more dangerous in warre, than to haue the secret pollicies thereof reuealed: which must needs be, if the people haue therein to doe. And therefore we read in the Greeke and Latine histories the designs and enterprises of warre to haue bene still managed by the wisdom and direction of some one or other captaine, or in case that the matter were of greater importance and consequence, by the counsell of the Senate, without any more speaking thereof vnto the people, after it was once by the peoples commaund denounced and proclaimed against this or that enemy. But if one should say, warre to haue bene oftentimes denounced by the aduice of the Senate, without the consent or commaund of the people: I confesse it to haue sometimes indeed so happened and fallen out, but yet very seldome: and that the Senate in so doing did vsurpe the maiestie of the people: which was the cause, that the Tribunes of the people, and faithfull keepers of their libertie, oftentimes interposed themselves to crosse the matter, as we see in *Liuius*, where he sayth: *Controuerſia fuit utrum populi iuſſu induceretur bellum, an ſatis eſſet S. C. peruicere Tribuni, ut Q. Conſul de bello ad populum ferret, omnes Centuria iuſſere*. Controuerſie was (sayth he) whether war should be denounced by the commaundement of the people: or els that the decree of the Senate, was sufficient, but the Tribunes preuailed; so that *Quintus* the Conſull propounded the matter vnto the people, which all the aſſembly of the people commaunded. Howbeit, that the Senat it ſelfe would not ordinarily denounce war, except the people had before ſo decreed, As *T. Liuius* ſpeaking of the ſecond Carthaginenſian war, ſayth; *Latum inde ad populum uellent iuberent, populo Carthaginenſi bellum indici*: It was afterward propounded vnto the people, whether they willed and commaunded war to be denounced vnto the people of Carthage. And in another place, *Ex S. C. populi iuſſu bellum prænēſtinis indictum*. By a decree of the Senat, by comāndement of the people war was proclaimed againſt them of Prænēſte. And againe, *Ex autoritate patrum populus Palapolitanis bellum fieri iuſſit*, The people following the authoritie of the Senat, commaunded warre to be made againſt them of Palapolis. And afterward, *Populus bellum fieri Aëquis iuſſit*, The people commaunded warre to be made againſt the Aëqui. And at ſuch time as warre was to be vndertaken againſt the Samnites, *Patres ſolemni more indicto decreuerunt, ut ea de re ad populum ferretur*, The fathers after the ſolemne manner decreed, that concerning that matter it ſhould bee referred vnto the people: Where *Liuius* in calling it the ſolemne manner, declareth it to haue bene a thing ſo uſed to be done. And ſo againſt the Herniques, * *Populus hoc bellum frequens iuſſit*, The people in great number commaunded this warre. And againſt the Veſtines, * *Bellum ex autoritate patrum populus aduerſus veſtinos iuſſit*, The people following the authoritie of the Senators commaunded warre to be made againſt the Veſtines. The like manner of denouncing warre was alſo amongſt the Tarentines, ſo long as their popular ſtate endured. For ſo ſayth *Plutarch*, *Ex autoritate Senatus populum Tarentinum Romanis in ferri bellum iuſſiſſe*, The people of Tarentum following the authoritie of the Senat, to haue commaunded warre to bee made againſt the Romans. And *Liuius* ſpeaking of the Aëtoliens, which were gouerned by a popular gouernment, ſayth it to haue bene by their lawes forbidden, that any thing ſhould bee determined concerning peace and warre, but in the Panætolian and Pylaican counſell. And for that the nobilitie of Polonia, Denmarke, and Sweden, pretend the right of Soueraigntie to belong vnto them, it is not lawfull for their kings without their authoritie and conſent either to denounce warre, or to vndertake it being denounced againſt them, except in caſe of urgent neceſſitie, according to the order of *Cafimire* the great. True it is that in Rome concerning peace the Senate oftentimes determined thereof without the conſent of the

The greateſt
daunger in war.

The Senate in
Rome had no
power to de-
nounce warre
without the con-
ſent of the peo-
ple.

Lib. 1. Dec. 3.

Lib. 1. Dec. 2.

Lib. 8. Dec. 10.

Lib. 9. Dec. 1.

Lib. 8. Dec. 5.

Lib. 5. Dec. 14.

No peace by the
Generall con-
cluded with
the enemy
good without
the confirmati-
on of him or
them that haue
the soueraigntie.

The Romans
oftentimes dis-
claymed the
peace by their ge-
nerals made with
their enemies
without the con-
sent of the peo-
ple.

the people ; as we may see in all the treaties of peace berwixt the Romane and the La-
tines : and in the confederats warre the Senate passed all the treaties of peace and alli-
ance without the people, *viz.* in the tumult and vprore of Italie: least the hard assem-
bly of the people, and danger of delay, might haue brought some dettirement vnto the
Commonweale. Yea sometimes the generals and great commaunders in the warres,
of themselves determined of peace and warre, without the commaundement of the
people or Senate, especially if the warres were in some countrey a farre off: as wee see
in the second warre of Carthage, the three *Scipioes* made all the treaties of peace and
alliance with the people and princes of Spaine and Affricke, without the aduise of the
Senat. Yet true it is, that the Senate, yea and oft times the people authorised their acti-
ons, and ratified their treaties, after that they were made: and if they were in anie thing
preiudiciall vnto the estate, had of them no regard. In which case the hostages and cap-
taines yeelded vnto the enemy, were at their owne perill to answer the matter. As the
Consull *Mancinus*, who for that the peace he had made with the Numantines, was re-
iected and not ratified by the Senate and the people, was himselfe deliuered vnto the
enemy. And that is it which a certaine Senatour of Carthage, as *Linie* reporteth by
way of exprobration objected vnto the Romane enbassadours, saying, *Vos cum Lu-*
Etatius Consul primò nobiscum sedus icit, quia neque auctoritate Patrum, nec populi iussu
ictum erat, negastis vos eo teneri. Itaque aliud sedus publico consilio ictum est. You at such
time as *Lucretius* the Consull first made peace with vs ; for that it was made without
the authoritie of the Senat, or commaundement of the people, said you were not ther-
unto bound: and therefore another peace was by your common counsell made.
And the same author speaking of *Manlius* the Proconsull of Asia saith, *Gallogracis bel-*
lum illatum, non ex Senatus auctoritate, non populi iussu: quod quis vnquam de sua senten-
tia facere ausus est? Warre was made vpon the Gallogrekes, neither by the authority
of the Senat, nor the commaund of the people, which what man durst of himselfe euer
do? But this was Orator like spoken by the aduersarie against *Manlius* being absent;
for that it was sometime so done, we haue by examples declared. *Spurius Posthumus*
the Consull, also being himselfe with his armie shut vp in the Straits and rockes of the
Appennin mountaines, in daunger with hunger to perish, before hee could haue heard
from the Senat or the people, what they would haue had him to haue done; to deliuer
himselfe and the Roman armie out of those straites, of himselfe made peace with the
enemy, though vpon verie hard and dishonourable conditions. But when he with his
armie disarmed, was returned to Rome; the Senat and the people reiected the peace
with the conditions by him accepted. Yea *Posthumus* the Consull himselfe, in the as-
sembly of the people said, *Cum me seu turpi, seu necessaria sponsione obstrinxi, qua tamen,*
quando iniussu populi facta est, non tenetur populus Romanus, nec quicquam ex ea prater
Corpora nostra debentur Samnitibus, dedamur per faciales nudi vinetique, Seeing that I
haue bound my selfe, whether it be with a shamefull or a necessarie promise and agree-
ment, wherewith for all that the people of Rome is not bound, forasmuch as it was
without their commaundement made, neither is there any thing thereby vnto the
Samnites due, more than our bodies; let vs naked and bound be so yeelded vnto them.
So the Consull called it not a treatie of peace, but a simple or necessarie promise. And
in truth the enemies had caused the Consull and all the captaines and lieutenantes of
the army to sweare, and further taken sixe hundred hostages, al which they might haue
put to death, if the people would not confirme the agreement taken; in which making
they yet committed one grosse oversight, in that they bound not all the souldiers in the
armie by oath to returne into those straits and enclosures of the mountaines, and euen
into the same state they were before, or els to yeeld themselves all prisoners, in case the
people

A people would not confirme the agreement by them made; which had they done, no doubt but that the Senat and the people would haue sent them againe into the same state they were, as they did the Consull, with the fixe hundred sworne hostages, whom for all that, the Samnites refused to receiue of the herauld. For in like case after the great ouerthrow by the Romans receiued at Cannas, when *Hannibal* had sent eight thousand souldiers, there taken prisoners, to Rome, to redeeme their libertie with the ranfome of a pound of gold for euery head; and that the Senat would not agree thereunto, but decreed, that they should either become the enemies slaues, or die: the Consuls charged those souldiers, before the appointed day to returne vnto the enemy; who all obeyed their commaund, but one, who by a craftie wile sought to delude the oath, before by him giuen vnto the enemy for his returne; whome the Senat for all that sent bound hand and foot vnto *Hannibal*. Or if it had seemed too hard a thing vnto the Senat, to haue yeelded the whole army being sworne vnto the Samnites, they would vndoubtedly yet haue confirmed those hard conditions of peace by them agreed vpon. As did *Lewes* the xij, the French king, in the treatie made at *Dijon* by the lord *Trimouille* with the Swissers, giuing them hostages of the chiefeest men of his army, with condition that the Swissers might put them to death, if the king should not ratifie the agreement with them made. As did the duke of Aniou vnto the hostages which those which were besieged in the castle of Eruall had giuen him: when he saw that *Robert Knolles*, captaine of the castle, being arriued within the castle, after the agreement, would by no meanes suffer the castle to be surrendred, saying, That the besieged without him could couenant nothing: and so also caused the prisoners that he had taken to be beheaded. For otherwise, if it were lawful for captains to entreat or conclude of peace at their pleasure, without expresse commaundement or ratification, they might bind both people and soueraigne princes, vnto the pleasure and appetite of their enemies, and such hard conditions as they pleased: a thing most absurd and vnreasonable, seeing that a common aduocat may not in the least matter of another mans, come to agreement, without expresse charge from him whome it concerneth.

But some may say, that these rules take no place in Venice, where the Senat doth wholly discern and determine of peace and warre, neither amongst the customes of the Swissers and Grisons, which are popular estates. And in the conuersion of the Florentine Commonweale, from the nobilitie vnto the popular estate, it is in one article especially provided, that the people shall haue to do with nothing, but with making of lawes, creating of magistrats, and the common treasure; as for peace and warre, and other things concerning the soueraigntie of the state, should be wholly in the power of the Senat. Whereunto we haue before said, that Popular and Aristocraticall estates cannot if they would, well mannage martiall affaires, for the hard assembling together of the people: and in case that the people might be at all times assembled, yet were it a thing of great perill and daunger, to haue those things which ought of all others to be most secret in a Commonweale, the counsels (I say) of peace and warre, reuealed and made knowne vnto the Vulgar people: which therefore were of necessitie to be left vnto the Senat, yet the power of peace and warre cannot be taken from the nobilitie or people in either state, the soueraigne maiestie thereof saued. And albeit that the people giue the charge thereof vnto the Senat, yet a man knoweth right well, that the commissions and mandats which are giuen out for such purpose, depend of the authority of the people, and vnder the peoples name are put in execution by the Senat, which is but the peoples procurator and agent, taking authoritie from the people, as all other their magistrats doe. As for monarchies, it is without any question that the resolution of peace and warre dependeth of the soueraigne prince, if the estate bee a pure monarchy.

Hard for the popular or Aristocraticall estates by the multitude well to mannage martiall affaires: and why.

narchie, For the kingdome of Polonia, Denmarke, Sweden, and Norway, as they are **F**
 states changeable and vncertaine, as the nobilitie is stronger than the prince, or the
 prince than the nobilitie: the resolution of peace and warre so dependeth of the nobi-
 litie, as that the state seemeth to be rather Aristocraticall than regall. And therefore the
 names of their dukes, marquesses, counties, gouernours, and counsellors, commonly
 to be in their leagues expressed, and their seales thereto annexed: as the peace betwixt
 the Polonians and the Prussians, made by king *Sigismundus Augustus* was sealed
 with an hundred and three seales of the nobilitie of his countrey: neither was there
 fewer in the act of the lawfull creation of king *Henry* to be king of Polonia.

The third mark
 of soueraigntie.

The third marke of Soueraigne maiestie is to be of power to create and appoint **G**
 magistrats, than which no more certaine signe can be, especially the principall officers,
 which are not vnder the commaund of other magistrats. This was the first law that
Publius Valerius made after the expulsion of the kings out of Rome: that the magi-
 strats should be chosen and appointed by the people. Which selfe same law was pub-
 lished also by the Venetians, at such time as they first assembled into the Gulfe, for the
 establisshing of their state, as *Contarenius* writeth: than which law there is none mote
 religiously kept by the Senat and the Venetian people. Yet much better is it kept in
 monarchies, where all is gouerned by one, and where the greatest, the meaner, yea and
 the least offices of all, as of *Porters, Sergeants, Clarkes, Trumpeters, Criers*, which in the
 Roman state were placed and displaced by the Roman magistrats are provided for by
 order from the prince, euen vnto the meanest offices. I haue said the appointing of **H**
 princes officers, that is to say, of the chiefe magistrats, for there is no Commonweale,
 where it is not permitted vnto greater magistrats, as also to many corporations and
 colledges, to make certaine meniall officers vnder them: as I haue before showed
 of the Romans. But yet that they doe by vertue of the office, which they hold, and
 as proctours created with power, to substitute other their deputies vnder them. We see
 also that clients and vassals, albeit that they hold their iurisdiction of some soueraigne
 prince in fealtie and homage, haue neuerthelesse power to establish judges and officers
 in their iurisdiction: but yet this power is giuen them by some soueraigne prince. For
 no doubt dukes, marquesses, counties, barons, and lieutenants of countries, were no
 other of their first institution but judges and officers; as we shall in due place declare. **I**
 But sometimes in a popular estate power is giuen unto the greater magistrats to create
 the lesser; as we read that the people of Carthage had a custome to make five magi-
 strats, for to make choyce of the hundred and foure magistrats of the Commonweale;
 as they do also at Nuremberg, where the Censors which are chosen of the great
 Councell, chose the new Senators, and that done, giue vp their charge. The Senate
 which is of xxvj, making choyce of the eight Auntients: and afterward of the xij of
 the seuen Burgamasters, and of the xij Iudges for ciuill causes, and five for criminall.
 Neither is this any new matter; but an old and auntient fashion. For *Aristotle* writeth,
 the people of Carthage to haue vsed to chuse five men, who according to their discre-
 tion still made of the hundred and foure magistrats: which was also a thing ordinarie **K**
 vnto the Roman Censors, who by their discretion supplied the number of the Sena-
 tors, which the Consuls did before by the sufferance of the people, who from the be-
 ginning made them, as *Festus Pompeius* saith. And sometime the dictators were for
 that purpose onely made to supply the number of the Senators. As *Fabius Buteo*
 named Dictator by the Consull *Terentius*, following the decree of the Senat, made
 choyce at one time of an hundred seuentie seuen Senators, in stead of them that were
 dead. Howbeit that to speake properly, a Senator is no magistrat, as we will show in
 the discourse concerning the Senat. But howsoeuer that it was, whether it were the
 Consuls,

The lesser ma-
 gistrates in a po-
 pular estate
 sometime created
 by the greater,
 but not without
 power from
 them which had
 the soueraigntie

A Consuls, the Dictators, or Censors, that made choice of the Senators, & so supplied the Senat, they did it not but by the power of the people, which was also to be reuoked at the peoples pleasure. So may we also say of the Turkes Cadelesquires, which are as the kings two great Chauncelours, who haue power to place and displace all the Cadies and Paracadies, that is to say, the judges and their deputies. And in *Ægypt*, in the time of the Sultans gouernment, before it was by *Selymus* the first conquered, the great Edegnate, which was a Cunstable to the Sultan, had power to place all the other officers: as had in auncient time the Grand M. of the Pallace in Fraunce. And it is not long ago but that the chauncelour of Fraunce had power at his pleasure to bestow all offices which had none, or but some little fees, *viz.* of some three or foute crownes at the most: which was reuoked by king *Francis* the first. And albeit that alwaies the chauncelor, the great Edegnate, and the Grand M. of the pallace, had all their power from the kings and Sultans, as by them placed: yet was so great power verie daungerous vnto the former kings and Sultans, which by little and little haue since beene cut so short, as that in the raigne of *Charles* the seuenith, the verie baylieffes and seneeschals were placed by the prince, who before were wont to be placed by the maiors, whose lieutenants they were. Sometime also it may be that magistrats, corporations, or colleges, haue power to nominat and chuse the principall magistrats: as we read in the records of the court of Paris, that by a law made in the yeare 1408, it was decreed that the officers of the high court of parliament should be made by election; and so therevpon

C commaundement was giuen vnto the chauncelour to go into parliament for the election for the offices vacant. Which law was againe reuiued by king *Lewes* the xj, in the yeare 1465. And after him in the time of *Charles* the eight, not only the presidents, the kings counsellors, and aduocats, were made by election, but euen the kings atturney generall (who is the onely man of all the body of the court, which oweth not oath but to the king alone: albeit that the atturneyes of other parliaments, which he calleth substitutes, take their oath in the court) was chosen also by the suffrages of the court: In the yeare 1496. But yet all their letters of prouision & confirmation of their elections into their offices, then were, and yet are, alwayes graunted by the king: without whose confirmation their election was to no purpose. Which may serue for answer to that which one might say, that *Arthur* duke of Bretaine, was chosen Cunstable of Fraunce, by the voyces of all the princes, of the great Councell, and of the parliament in the yeare 1324. For albeit that the king *Charles* the sixt, was then distraught of his wits, & that the seales of France had in them not the image of the king, but of the queene onely: yet neuerthelesse the said new constable taking vpon him the gouernment of the kings sword, and of the French armie, being sworne to the keeping of the lawes, at the same instant acknowledged himselfe to hold his office and power in fealtie and homage of the king: so that all authoritie and power to commaund, may well seeme to flow and be deriued from the fountaine of the prince onely.

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Yet may some say that the Great Palatine of Hungarie, who is the greatest magistrat of that kingdome, and the kings lieutenant generall, is chosen by the estates of the countrey: it is true; but yet his prouision, institution, and confirmation, belongeth vnto the king, who is the chiefe head and author of his power. Howbeit that the estates of the kingdome of Hungarie, yet pretend to haue the right to make choyce of their kings; the house of Austria maintaining the contrarie. And it seemeth that the Kings haue by sufferance passed it ouer, that the estates should still haue the chusing of the great Palatine, so to cause them to forget the election of the king. Whereunto for all that they haue beene so obstinately wedded, as that they haue chosen vnder the colour of protection, to put themselues vnder the Turkes slauerie, rather than to haue this

power

Great magistrats
sometime chosen
by the estates of
the countrey,
or otherwise; but
still approued
and confirmed
by the king.

power for the choyce of their kings (by the house of Austria) wrested from them. It is not therefore the election of great officers which declareth the right of soueraigntie; but the princes approbation, ratification, and confirmation, without which the magistrat is of no power at all. Yet if such creation of magistrats were by the founders of Commonweales, and law makers, so giuen vnto the people, or colleges, as that they could not from the people or colleges be taken, then truly the prince should not haue the right of soueraigne maiestie or power: for that the magistrats power were not to be attributed vnto the prince, but to the people; as by little and little it happened vnto the kings of Polonia. For when as by a law made by *Sigismundus Augustus*, all the magistrats of euerie countrey, were to be chosen by the particular states of euery gouernment; the maiestie of the kings, who also reigned by the good liking of the people, was therby much impaired. Which confirmation of magistrats so chosen, is no new thing; for euen from the time of the Gothes we read in *Cassiodorus*, that *Theodoricus* king of the Gothes, gaue his letters of confirmation vnto the officers whome the Senat had chosen; vsing these words in his letters directed vnto the Senat, for one whom they had made a Senator, *Iudicium vestrum P. C. noster Comitatur assensus*, Our consent, Reuerent fathers, doth accompany your iudgement. Now seeing that power to commaund ouer all the subiects of a Commonweale belongeth vnto him that holdeth therein the soueraigntie; it is good reason also that all magistrats should acknowledge their authoritie to proceed from him.

* *Cassiodorus. lib. 1. Epist. 6.*

The fourth
marke of soue-
raigntie.

Liuius lib. 1. c. 7. & 10.

But now let vs speake of the fourth marke of Soueraigntie; that is to wit, of the *Last Appeal*, which is and alwayes hath beene one of the most principall rights of soueraigntie. As a man may see after that the Romaines had driuen out their kinges: not onely the last Appeal, but euen all Appeales from the Magistrates, were by the Law *Valeria* referued vnto the people. And for that the Consuls and other Magistrates oftentimes gaue small eare vnto them that did appeal vnto them, the same Law was often times * renewed: and by the Tribunitiall law *Duillia* the paine of death adioyned there vnto, for him that should oppose himselfe against the same; which Law *Liuius* calleth the foundation of the popular libertie: albeit that it were euill executed. The same Law was yet more straitly kept in Athens; where the last Appeal was referued vnto the people, not onely from the Magistrates of the citie, but euen from the Magistrates of their allies and fellowes also: as the writings of *Xenophon* and *Demosthenes* do right well declare. The same Law *Contarenius* writeth to haue been the first that was by the Venetians made for the establishing of their Commonweale: viz. That all men might freely appeal from the Magistrates, vnto the Graund counsell of the people. Nether was *Francis Valori* Duke of Florence for any other cause slaine, then for not hauing giuen way vnto the Appeal, made from him vnto the Great counsell of the people, by three Florentines by him condemned to die, and so notwithstanding their appeal by him executed. But some may say, that not onely this Duke at Florence, but at Rome the *Dictators*, and other Magistrates also, oftentimes put to death condemned citisens, notwithstanding their appeal made vnto the people, as is in many histories to be seene. Whereof there was an heanie example made by the Senate of Rome, which caused the remainder of the Legion sent to *Rhegium* being taken and brought to Rome, to be whipped and afterward beheaded without regard of the appeales by them made vnto the people: or to the intercessions of the Tribunes exclaiming, the sacred Lawes concerning Appeales to be violated, and troden vnder foote. Whereunto in brieft I aunswere, as did *Papinian*, That we ought not to rest our selues vpon that they doe at Rome, but on that which ought to bee there done. For it is most certaine, that a man might appeal from the Senat vnto the people: and that ordinarily

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A dinarily the opposition or intercession of one of the Tribunes, stayed the proceedings of the whole Senat; as we haue before touched. And the first that gaue the power vnto the Roman Senat to iudge without appeale, was *Adrian* the emperour, for the edict of *Caligula*, whereby he gaue power to all magistrats to iudge without appeale, rooke no place. And albeit that *Nero* decreed, that they which without cause had appealed vnto the Senat, should be punished with like punishment, as if they had appealed vnto his owne person: yet forbad he not men to appeale from the Senat vnto himselfe, although he had referred the appeales from all the magistrats vnto the Senat. But this aunswere seemeth directly contrary vnto that we haue before said. For if no appeale were to be made from the Senat vnto the emperour, but that the last appeale was vnto the Senat, then was not the last appeale the true marke of soueraignie. Ioine also hereunto, that the Great master of the Pallace, whome they called *Præfectum Prætorio*, gaue iudgement without appeale, receiuing also the appeales of all the magistrats and gouernours of the empire, as sayth *Flavius Vopiscus*: as in euery Commonweale we see certaine courts and parliaments which gaue iudgement without appeale; as the eight parliaments in Fraunce, the foure courts in Spaine, the imperiall chamber in Germanie, the councell at Naples; the fortie at Venice, the Rota at Rome, the Senat at Milan; and so the greater courts of other cities, who heare and decide either all or most part of causes, both publike and priuat, without appeale: and in all the imperiall rownes, duchies, and counties, depending of the empire, no appeale is to be made vnto the imperiall chamber, in criminall causes once iudged by the magistrats of the prince, or of the imperiall cities: whereby it appeareth the last appeale not to belong onely vnto the right of soueraigne maiestie. Whereunto I aunswere, vnder the name of Appeale, to be also contained requests made vnto the prince, which the law call Ciuill Supplications: so that when we may not appeale from the sentence of the greater magistrats, yet may we by way of request put vp our supplications vnto the prince; which hath moued many of our late lawyers to say, Ciuill supplications to belong vnto the right of soueraigne maiestie: and albeit that almost alwaies the decrees are againe iudged by the same judges, as oft as request is made vnto the prince concerning a iudgement giuen: yet is it in his wil & power either to receiue or reiect the request: and oftentimes hee calleth the cause vnto himselfe therof to determine, or to reuerse that which hath bene done; or else remitteth it vnto other judges, which is the true marke of soueraignie and last appeale, wherein the maiestie of the prince or people doth most appeare: forasmuch as it is not lawfull for any magistrat or judge to chaunge or amend their iudgement once giuen or recorded, without leaue of their soueraigne prince, and that vpon paine of false iudgement. And if so bee that the soueraigne prince would make an edict, that none of his subiects should appeale from any of his magistrats, or preferre any request vnto himselfe against their iudgements, as the emperour *Caligula* was about to haue done: yet neuerthelesse should it alwaies be lawfull for the subiects to appeale, or to exhibit their requests vnto the prince: For that the prince cannot so bind his owne hands, or make such a law vnto himselfe; either prohibit his grieved subiects from comming vnto him with their humble supplications and requests: For that such edicts concerning appeales and iudgements, are but ciuill decrees and lawes wherewith the prince cannot be bound, as we haue before said. For which cause it seemed a new and absurd thing vnto the Senat of France, and especially vnto *Michael de l' Hospital*, that the commissioners appointed to proceed against the president of Alemand, forbid him by a decree made against him, to come within twentie leagues of the court, so to cut him off from the meanes to preferre his petitions; which the king himselfe could not of right take from his subiect, although it were in his power to grant or

**Flavius Vopiscus* in *Floriano*.

A soueraigne prince cannot by any edict prohibit his subiects to appeale from his magistrates, or to prefer their humble requests vnto himselfe.

reieſt his request being once made vnto him knowne. We ſee alſo, that in all graunts of publike lands by way of pention, with power and iuriſdiction vnto the children or neere kinſmen of the houſe of Fraunce, and generally in the erection of duchies, marquiſats, counties, and principalities, fealtie and homage, appeale and ſoueraigntie, are ſtill reſerued: that ſometime there is onely reſeruatiſon made of appeale and ſoueraigntie: as in the declaration made by king *Charles* the fiſt, to *Iohn* duke of Berrie, bearing date the third of March, in the yeare 1374: wherein is alſo fealtie and homage comprised. For it is certaine that the duchie of Berrie was then the portion giuen vnto the duke of Berry with the charge of rights royall, and reuerſion to the crowne for want of heires male: as I haue learned by the letters of graunt, which are yet in the treaſurie of Fraunce. We ſee alſo the like declaration of *Philip* Archduke of Austria, (*Charles* the fiſts father) made to king *Lewes* the twelfth, and another of him the ſame, in the yeare 1505: wherein he acknowledgeth and profeſſeth himſelfe readie to obey the decrees of the parliament of Paris, in regard of the countries of *Artois* and *Flanders*, and of other lands which he held of the king; and nor to forbid them of thoſe countries to appeale vnto the court at Paris. And in the treatie of Arras, made betwixt king *Charles* the ſeuenth, and *Philip* the ſecond, duke of Burgondy, there is expreſſe reſeruatiſon made of fealtie and homage, appeale and ſoueraigntie, for thoſe lands which he and his auncſtors held in fee of the crowne of Fraunce. Neither did *Charles* the fiſt the French king take any other occaſion to make warre againſt the Engliſh men, than for that their Engliſh magiſtrats and gouernors which had the gouernment of Aquitaine, vnder the fealtie of the French, would not heare the ſubiects appeales. At which time the court of Paris commaunded the king of England to be ſummoned, and for default of appearance pronounced ſentence againſt him: whereby the duchie of Aquitaine was for that cauſe conſiſcated vnto the king, as is to bee ſcene by the decree of the parliament of Paris, giuen the xiiij of May, in the yeare 1370. For otherwiſe if a ſoueraigne prince ſhall remit vnto his vaſſall the right of appeale and ſoueraigntie; which is vnto himſelfe due, he maketh him of a ſubiect a ſoueraigne prince; as did king *Francis* the fiſt, diſcharging the duke of Loraine of all fealtie and homage, appeale and ſoueraigntie, for the caſtle of Chastelet vpon the Maze in the yeare 1517. But when hee ſuffered the ſame duke in ſoueraigne manner without appeale to gouern in the duchie of Bar; and that the dukes, officers, and magiſtrats afterward abuſed their permiſſiue authoritie, as in abſolute ſoueraigntie, the kings attorney generall thereof complained vnto the king, aduiſing him not to ſuffer the rights of his ſoueraigne maiestie to be ſo impaired. Which thing *Anthoine* then duke of Loraine vnderſtanding, and after him *Francis* his ſonne, by recogniſance in autentique manner declared, that their purpoſe was not in any thing to derogat from the fealtie and homage, appeale and ſoueraigntie that they ought vnto the crowne of Fraunce, by reaſon of the ſaid duchie; and that they had not therein vſed ſoueraigne iuſtice but by ſufferance: which letters of recogniſance are in the publique records to be ſcene, and were afterward exhibited vnto the priuie counsell, in the yeare 1564, in the raigne of *Charles* the ninth, who by all means fought by a moſt gracious and large charter to haue giuen vnto *Charles* then duke of Loraine, the ſoueraigntie of the duchie of Bar: but all in vaine, forasmuch as the king can by no meanes alienat from himſelfe, the rights belonging vnto his ſoueraigntie, nor the high court of Paris aſſenting thereunto, although the power and authoritie of that court may where the king is, ſeeme to be nothing; in the preſence of whom all the power and authoritie of all magiſtrats ceaſe.

Wherefore the beſt & moſt expedient way, for the preſeruatiſon of a ſtate is, neuer to giue any marke or right of ſoueraigntie vnto a ſubiect, and much leſſe vnto a ſtraunger:

for

No marke or
right of soue-
raigntie is by
the prince to be
bestowed vpon
his subiect, or a
stranger.

A for that is one step and degree to mount vnto his soueraigne maiestie . And therefore it was long doubted in the counsell, whether power and authoritie without appeale, should be graunted vnto *Francis* duke of Alencon (who had made mee master of the requests and one of his counsell) in that his dukedome ; as had before bene graunted vnto the auncient dukes there . And although he were the kings best and moſt louing brother , yet one of the attorneyes generall was ſo bold as to ſay in full counsell , That it were better to bring in twelue courts of parliament, than to ſuffer that, albeit that that iuriſdiction was for a ſhort time granted, and extraordinarie judges by the king appointed ; with reſeruatiō of appeales, in many caſes and cauſes, as alſo with exception of fealtie and homage . Wherein our auncſtors much offended , who with too much facilitie (ſhould I ſay, or neceſſitie) graunted the ſame iuriſdiction vnto the dukes of Normandie . For by this meanes the dukes of Britaigne and Burgundie revolted from our kings vnto the kings of England ; for that ſuch judges were denied them , as had bene granted vnto the dukes of Alencon : taking it grieuouſly themſelues, in the name of their magiſtrats to be ſummoned vnto the court at Paris, there to haue thoſe things reuerſed which their magiſtrats had vniuſtly determined; althogh ſometime they were things of right ſmall weight and importance ; whereof the dukes of Britaigne complained both vnto king *Philip* the Faire, and *Philip* the Long, who by their letters patents ſent vnto the court of parliament in February 1306, and in October 1316, declared that their meaning was not, that the duke of Britaigne or his officers, ſhould bee called before them into the court ; but in queſtion of ſoueraigntie, or in caſe they ſhould deny to doe iuſtice, or els had giuen falſe iudgement.

C The ſame we are to thinke of all the princes and cities of Germanie , from whome euen in priuat iudgements men may iuſtly appeale vnto the imperiall chamber , if the matter exceed the ſumme of 50 crowns, or if any controuerſie be betwixt the cities and princes themſelues . Whereby it is to be vnderſtood, neither the German princes, nor cities to haue in them the right of ſoueraigntie : For that it is a capitall crime, euen treaſon it ſelfe, to appeale from a ſoueraigne prince, except he appeale as did that Greeke (whoſoeuer he was) who appealed from *Philip* king of Macedon euill aduiſed , vnto himſelfe being better aduiſed . Whice manner of appeale *Lewes* of Burbon, prince of Conde vſed alſo from the interlocutorie ſentence of *Francis* the ſecond , the French king, which he hauing vnderſtood the cauſe, is ſaid to haue giuen againſt him in the priuie counſell : Which manner of appeale *Baldus* the great lawyer alloweth as good, and to be receiued . And well it would beſeeme the maieſtie of ſoueraigne princes to behold and follow the example of that Macedonian king, who receiued the appeale ; or if they would needs that their decrees whatſoeuer ſhould ſtand faſt and irremouable, becauſe they would not ſeeme vnconſtant or variable, that then they ſhould do as did the ſame king to *Machetas* , who of his owne goods recompended him , for that hee had vniuſtly condemned him in, without chaunging of his former decree and iudgement.

E From this marke of Maieſtie, and benefit of ſupreamē Appeale, dependeth alſo the power to grant grace and pardon vnto the condemned, contrarie to iudgement giuen, and to the rigour of the lawes ; be it for life, be it for goods , be it for honour, or recalling from baniſhment : for it is not in the power of the magiſtrats or judges, how great ſoeuer that they be , to graunt the leaſt of theſe things vnto the condemned perſon, or of themſelues , to alter any thing of the iudgements by them once giuen . And albeit that the Proconſuls and gouernours of prouinces , had as much power in their iuriſdiction, as had all the magiſtrats of Rome together : yet ſo it was, that it was not lawfull for them ſo much as to reſtore him whome they had but for a time baniſhed (as wee

The fiſt marke of
ſoueraigntie

read in the letters of *Plinie* the younger, gouernor of Asia vnto *Traian* the emperor) and much lesse giue pardon vnto men condemned to die: which is most straitly forbidden all magistrats in euery Commonweale, be it well or euill ordered or gouerned. And albeit that *Papirius Cursor*, the dictator, may seeme at the request of the people to haue giuen pardon to *Fabius Max.* collonell of the horsemen, for hauing giuen battle contrarie to his commaund, although he had slaine xxv thousand of the enemies: yet neuerthelesse in effect it was the people which gaue the pardon: albeit that they most instantly besought the dictator to pardon the fault: Which they themselues might at the same time haue done, but yet had rather to request it of *Papirius*, than to take the guiltie person from him against his will. For *Fabius* vnderstanding himselfe in his absence to be by the dictator condemned, appealed vnto the people: before whom *Papirius* defended his iudgement, as iustly giuen against *Fabius*: which a man of his vertue and seueritie would not haue done, if an appeale might not haue bene made from the dictator, vnto the people: and that in it was the power of life and death. *Sergius Galba* the Orator also, in like iudgement by *Cato* the Censor, attainted of treason, tooke his refuge vnto the people, who moued with his teares, and embracing of his children, pardoned him. Whereupon *Cato* said, That *Galba* had bene well whipped, had hee not taken himselfe vnto his teares and his children. The same power of life and death had also the people of Athens, as appeareth by *Demosthenes*, and *Alcibiades*, who both condemned, were afterward by the people pardoned, and againe restored both vnto their goods and honour. And amongst the Venetians it is not lawfull for any their magistrats, no not for the duke himselfe, the Senat, or the Decemviri, to graunt pardon vnto the condemned: for that is left vnto the discretion of the great council of the Venetian gentlemen onely. The Decemviri before abusing their power by sufferance, graunted pardons, and neuerthelesse was order taken in the yeare 1523, that the counsell of the Sages, which are in number xxij, should therein be assisting vnto them: and that the pardon should take no place, without the generall consent of them all: but at length in the yeare 1562, the counsell was forbidden at all to meddle, or to haue to doe in that matter. And albeit that the emperour *Charles* the fift, in the erection of the Senat at Milan, graunted thereunto all the markes of soueraigntie, as vnto his lieutenant and deputie in his absence, comming verie neere vnto absolute soueraigntie: yet so it is, that hee still reserued vnto himselfe the power to graunt pardon and mercie vnto the condemned; as I haue learned by the letters patents by him graunted: which hath bene a thing right straitly obserued and kept in all Monarchies. And although that in Florence during the popular state, the eight men without all right had vsurped the power to graunt pardons: yet was that power againe restored vnto the people by *Sodorin*, after the chaunge of the state. As for other kings they haue still thought nothing more royall, than to deliuer the condemned from death: neither do they suffer the iudges or magistrats of other dukes and princes, to examine the letters graunted by the king for the restoring of the condemned: although that they examine the pardon graunted. And albeit that king *Francis* the first had giuen vnto his mother power to graunt pardon vnto the condemned: yet for all that the court of Paris, hauing taken order to haue it showed vnto the king, that it was one of the fairest markes of soueraigntie, which could not be communicated vnto a subiect without impairing of his maiestie: the Queene mother thereof aduertised, renounced this priuilege, and restored the letters patents vnto the king, before they were of her requested. For indeede that prerogatiue could not of right bee graunted vnto the French Queene, neither any other the proper markes of Soueraigntie.

And albeit that the Roman lawes say that the empresse is dispensed with from all edicts

Things properly
belonging vnto
the soueraigntie
of a prince canin
no wise be im-
parted vnto a
subiect.

A edicts and lawes: yet that taketh no place in this realme of Fraunce; yea there is found a decree in the records of the court, in the yeare 1365, in Iuly: whereby the queene was condemned to lay downe in the court the money of her demaunded, whilst the matter was in tryall; that the creditor might demaund it so laid downe vpon good caution giuen: which by the Roman law is a meere iniurie, so to begin sute of execution. I find also that king *Charles* the sixt, gaue power to *M. Arnald de Corbie*, chauncelour of Fraunce, by letters patents, the xiiij of March, in the yeare 1401, to grant pardons vnto the condemned, some of the great Councell being present with him: but that was at such time as the chauncelours were almightie, hauing all in their owne hands: and that king *Charles* the sixt was then not in the power of himselfe but of others, by reason of his maladie.

B Now if any man shall obiekt and say, That in auncient times the gouernours of provinces gaue pardons, as we yet may see by the custome of Henault, and of Daulphinie: as also that the bishop of Ambrun, by autentique charters pretended this power. Hereunto I aunswere, that such customes and priuileges, wrongfully wrested and extorted from our kings, were of good right abrogated by an edict of king *Lewes* the twelfth. And if such priuileges be of no force: so may we also say their confirmations to bee of no more strength. For the confirmation is neuer any thing worth, if the priuilege bee of it selfe naught. Now must it needes be naught, for that it cannot bee seperated from the crowne. For as wee haue before said, that the priuileges by princes euen lawfully graunted, cannot stand good for euer: so the rightes of Soueraigntie, which cannot by the kings themselues bee graunted vnto any; without giuing away of ther Scepter and kingdome, can much lesse being graunted, bee by them confirmed.

Priuileges wrongfully wrested from kings cannot by any new confirmation be made good.

C As for Gouernours, Deputies, Lieutenants generall of Soueraigne princes, it is another reason; for that they haue not that power by priuilege, or by office, but by commission, as the deputies or lieutenants of their princes. But in the state of a well ordered Commonweale, this power of Soueraigntie ought not to bee giuen to any, neither by commission, neither by title of office, except it bee for the establishing of a Regent in his gouernment, for the great distance of places; or for the captiuitie of Soueraigne princes: or for that they are furious; or else in their infancie. As it was done by *Lewes* the ninth, who for his tender yeares, was by the estates of Fraunce committed to the tuition of his mother *Blanche* of Castile; after that she had giuen certaine princes for assurance that shee should not giue the tuition of him to any other person. So the gouernment of the kingdome was committed vnto *Charles* the fift, as Regent during the captiuitie of his father king *Iohn*. And in the captiuitie of *Francis* the first, *Louise* of Sauoy his mother, tooke vpon her the protection of the kingdome committed vnto her by the king her sonne; with all the royalties thereof, in the title of Regent. And the duke of Bedford Regent in Fraunce, king *Charles* the sixt being there distraught of his wits.

E But heer may one say vnto mee, that notwithstanding the decree of *Lewes* the xij. the chapter of the church of Roan pretendeth alwaies to haue priuledge to graunt pardon in the fauour of S. Romane: the day before whose feast, it forbiddeth all the judges, yea and the parliamt of Roan it selfe, to execute or put to death any one of such as then be condemned; (as I haue scene it put in practise being in commission for the Prince, for the generall reformation of Normandie) and for that the court notwithstanding the chapters pardon, had after the feast caused to bee put to death one, which it had before the feast condemned: the chapter thereof greuously complayned vnto the king; hauing to friend one of the princes of the blood: the parliament

The great priuilege of the chapter of the church of Roan in granting pardon vnto the condemned.

A great priuilege
granted vnto the
Vestall Virgines
and the Cardi-
nalls in Rome.

What is by the
lawe of God
death,ough he not
by the prince to
be in any wise
pardoned.

Deut 19. & 21.

Whie grieuous
offences are to
be seuerely pun-
ished and not in
any wise pardo-
ned.

sent also their deputies, amongst whom *Bigot* the kings attourney was verie earnest in his oration in the Senat for the abuse, and encroaching vpon the kings maiestie: but the fauour of the great bishops more preuailing then reason, that priuilege was for all that he could say or do with the publike shame and losse continued: but was since taken away by king *Henry* the third. This priuilege had great affinitie with that which was giuen vnto the Vestall virgins at Rome, which was to giue pardon vnto him that was going to execution, if any one of the Vestal virgins by chaunce happened to meete him, as saith *Plutarke* in the lyfe of *Numa*. The like custome whercof is yet kept in Rome, for if a condemned man there meet a Cardinall, he is thereby deliuered from punishment. But I deeme that to bee most pernicious in the priuilege of S. Romane, that no man could enioy the benefit thereof which had but lightly offended: but he onely that had done the most execrable villanies that were possible to be found, such as the king vsed not to pardon, that such offences as could nether by the lawes of God nor man, nor by the fauour of Princes be pardoned, might yet vnder the colour of S. Romanes priuilege be remitted and forgiuen. But that is ioyned with the greatest impietie to thinke the pardon to be so much the more acceptable to God, by how much the fact committed is the more haynous or detestable. But I am of opinion (sa- uing alwaies the better iudgement) that no soueraigne Prince, nether yet any man a liue can pardon the punishment due vnto the offence which is by the law of God death, no more then he can dispence with the law of God, wherunto he is himselve subiect. And if it be so, that the magistrat deserue capitall punishment, which dispen- seth with the law of his king; how shall it be lawfull for a soueraigne prince, to dispence with his subiect from the law of God? And further if the Prince him selfe cannot giue away the least ciuill interest of his subiect, or pardon the wrong done vnto an other man: how can he than pardon the wrong done vnto almightie God? or the murder wilfully committed; which by the law of God is death, for all the pardon he can giue. But then wherein (might a man say) should the princes mercie show it selfe or appeare? if it could not show grace vnto the punishment appointed by the law of God? Wher- unto I aunswere, that there are meanes plentie, as in pardoning bloodshed committed by chaunce, or in defence of a mans selfe, or in mitigating the rigour of the positiue ciuill lawes: as if the prince should vpon paine of death forbid a man to beare armes, or to carrie victuals vnto the enemy; pardon shall yet well be bestowed vpon him that hath borne armes for the defence of himselfe onely; or on him which con- strained by pouertie, hath sold victuals deere vnto the enemy, to releue his owne great necessitie. Or whereas by the law the punishment for theft is death, the good prince may conuert that punishment into the restitution of foure fold, which is the pu- nishment by the law * of God appointed. But the wilfull murderer *You shall take him* (saith the law) *from my sacred altar, neither shalt thou haue pitie on him, but cause him to dye the death: and afterwards I will stretch forth my great mercies vpon you.* Neuerthe- lesse the Christian kings on that day which they commaund to bee most holy kept, as on *Good Friday*, vse for most part to pardon some one man or other, condemned of most horrible and notorious crime. Now pardons graunted to such villaines drawe after them plagues, famine, warres, and ruines of Commonweales; and that is it for which the law of God saith, That in punishing them that haue deserued to dye, they shall take away the cause from among the people: for of an hundred villaines there commeth scarce two of them into the triall of iustice: and of those that come, the one halfe of them for want of prooffe and of witnesses escape vnpunished: and then if when they are proued princes graunt vnto them pardon, what exemplarie punishment shall there be for offences and villanies committed in the Commonweale? And many of- fendors

A fenders, when they cannot of their owne prince obtaine grace and pardon, interpose the fauour of some other forren prince, who becommeth an intercessour for them. Whereof the States of Spaine complained vnto king *Philip*, presenting vnto him a request, to the end he should aduertise his ambassador in Fraunce, no more in the behalfe of the French king, to request pardon of the king of Spaine, for the condemned men which had retired themselues out of Spayne into Fraunce: for that hauing obtained pardon, they many times slew the iudges, who had before condemned them. But of all the graces and pardons that a prince can giue, there is none more commendable, than when he pardoneth the iniurie done against his owne person: and of all capitall punishments none is more acceptable vnto God, than that which with most seueritie is executed, for the wrong done vnto the maiestie of himselfe. But what then are we for to hope for of the prince, which most cruelly reuengeth his owne iniuries, and pardoneth the wrong done to others; and especially those which are directly done to the dishonour of almighty God.

The most gracious and commendable pardon that a prince can giue.

B Now that which we haue said concerning the grace and pardon graunted by a soueraigne prince vnto men condemned, is to the vtermost to be extended, euen vnto the preiudice of the great lords, vnto whome the confiscation of the offendours lands or goods by law or custome belong, who are not to be receiued to debate or impugne the pardon graunted by the prince; as by decree of parliament hath bene adiudged. Now many there be, which draw the grace of the princes gracious restitutions vnto priuate iudgements: as when a man is for want of counsell deceiued or cosoned; or requesteth the benefit of his minoritie, which in many cities and Commonweales are proper vnto soueraigne princes: but yet are not the markes of soueraigne maiestie, except onely the legitimating of bastards, of fees, and such like: for why the rest were partly by the magistrats hauing vnderstood the cause, and partly by the lawes and customes vsually graunted. For in the lawes of *Charles* the vij and *Charles* the viij, it is expressely commaunded vnto the iudges, in deciding of causes, not to haue any regard of the decrees of forraine courts, further than they should with equitie agree: which by this common clause vnto all decrees in this realme commonly annexed (*Si satis superque apparet*, If it shall sufficiently, and more than sufficiently appeare) is declared. Which clause if it be not ioyned vnto the decree, the magistrat hath but to vnderstand of the fact; the punishment thereof being reserued vnto the law, and the pardon vnto the soueraigne prince. And that is it for which *Cicero* crauing pardon of *Cesar* for *Ligarius* saith, *I haue oftentimes pleaded with thee before the iudges, but I neuer said, for him whom I defended, Pardon him my lords, he was deceiued, he thought it not, if euer hee do so againe, &c. So children vse to say vnto their parents, of whome they craue pardon: But before the iudges we say, That the crime is for euill will forged, the accusor is a slanderer, the witnesses false and suborned.* In which words he plainly shewed, that *Cesar* hauing soueraigne power, had also the power of life and death, (and so to graunt pardon) which the iudges had not.

E Now as for liege fealtie and homage, it appeareth, that it is one of the greatest rights of soueraigntie; as we haue before declared: in respect of him to whom it is due, without exception.

The sixth marke of soueraigntie

As for the right and power to coyne money, it is of the same nature with the law, and there is none but he which hath power to make a law, which can appoint the value, weight, and stampe of the coyne: which is well to be vnderstood by the Greeke and Latine worde; for the Latine word *Nummus*, seemeth well to haue bene deriued of the Greeke word *νόμος*. For nothing is in a Commonweale of greater consequence next vnto the law, than the value, weight, and stampe of the coyne; as we haue in a spe-

The seventh marke of soueraigntie.

The right and
power to coine
monie the insep-
arable marke
of soueraigntie
to be granted vn-
to subiects.

ciall treatise declared: and in euerie well-ordered Commonweale, none but the soueraigne prince hath power to appoint the same. As we read they did in Rome, when the value of the Victoriat was appointed and set downe, it was done by an expresse law of the people. And albeit that the Senat by decree to ease the publike necessitie, made the halfe pound of copper as much worth as the pound; and a while after the quarter, as much worth as the pound, vntill that the ounce was valued as much worth as the pound: yet all this was done by the consent of the Tribunes, without which nothing that the Senat had therein decreed was of any force. And after that, *Constantine* the emperour made a law, That they which had coyned false money should be punished as men guiltie of high treason: which law all princes haue most straitly kept, taking vnto themselues the confiscations of false coynes, excluding all others, which haue any claime thereto. With like punishment also are they to be punished, which without the princes leaue coyne good money. And albeit that many particular men in this realme, had in auncient time priuilege to coyne money, as the countie of Touraine, the bishops of Meaux, Cahors, Agde, and Ambrun, the counties of S. Paule, of Marche, Neuers, Blois, and others: yet for all that king *Francis* the first, by a generall edict took away all those priuileges: which could not indeed be graunted: but beeing graunted, were by the law made void: ioyning hereunto also, that they were not to endure, but for the life of them that graunted them, as we haue before showed in the nature of priuileges: howbeit that this marke and right of soueraigntie ought not in any sort to be at all communicated vnto a subiect. As it was well declared to *Sigismundus Augustus*, king of Polonia, who in the yeare 1543, hauing giuen priuilege vnto the duke of Prusse, to coyne money: the estates of the countrey made a decree, wherein it was comprised, that the king had no power to giue away that right, as beeing inseparable from the crowne. For which selfe same reason the Archbishop of Gnesne in Polonia, and the Archbishop of Canterburie in England, both chancelours, hauing obtained the same right and priuilege from their kings, were thereof againe deprived. And for this cause all the cities of Italie holden of the empire, which had of the former emperours obtained this priuilege of coyning of money; in the treatie at Constance gaue vp the same vnto the emperour, excepting them of Luca, vnto whom in fauor of pope *Lucius* the third, their countrey man; the emperour at his request graunted that priuilege. We read also, that the principall occasion that *Peter* king of Arragon tooke hold of, to driue *James* king of Maiorque out of his kingdome was, for hauing coined money; pretending that he had no right nor power so to doe. Which was also one of the occasions that *Lewes* the xj tooke hold of, to make warre vpon *Francis* duke of Britaigne, for that hee had stamped a coyne of gold, contrarie to the treatie made in the yeare 1465. And the Romans when as they suffered money of Brasse, and siluer to be coyned in all their prouinces, yet did they forbid any to be there coyned of gold, reseruing that still vnto themselues. Howbeit that *Iohn* duke of Berry had priuilege of *Charles* the fift, the French king, to coyne money of both mettals; who because hee would not any thing therein offend, caused peeces of gold to bee coyned with the figure of a sheepe vpon them, of the finest and purest gold that euer was either before or since coyned in this realme.

Yet is it not to be omitted, that though the prince contrarie vnto the law, shall giue to any man power to stampe money, that the worth and valour thereof stil dependeth of the soueraigne prince; in such sort, that they which so coyne the same, haue no other profit thereby but the stampe onely; whereof princes do wonderfully vaunt and glorie. But of auncient time in the Roman Commonweale, whilest it was a popular state, the *Triumviri Monetales*, or masters of the mint, coyned the money with such a stamp

- A** or marke as they themselues thought good, with their names & these letters thereupon, *III Viri, A.A.A. FF.* which *Caulus* baileiffe of the mountaines interpreteth, *Ære, Argentio, Auro, Flauo, Ferunto*: but more truely thus, *Trium viri, Auro, Argentio, Ære, Flando, Feriundo*. And truely *Seruius* king of the Romans was the first that there stamped an heauy coyne of brasse, with the figure or impresion of an Oxe vpon it, to the imitation of *Theseus* king of Athens, who had coyned money with the same figure or marke, and the figure of an Owle. Whereby it appeareth the Greeke and Latine princes of old, not to haue bene touched with that vaine desire of glorie, wherewith other princes were tormented: and wherafter the kings of Asia and Affrike most greedily longed. The first that coyned money in Greece with his owne image
- B** thereon, was *Philip* king of Macedon: which peeces of money were therof called *Philippi*; therein imitating the Persean kings, who called their peeces of gold first stamped with the image of *Darius*, by the name of *Dariques*. Whereof king *Darius* was so ielous (as *Herodotus* writeth) as that he caused *Ariander* gouernour of Ægypt to bee beheaded, for hauing stamped the money with his owne image. As for the same cause also the emperour *Commodus* beheaded his minion *Pecenninus*. And also king *Lewes* the xij hauing left all the power and right of Soueraignty vnto the Genowayes, whom he had ouercome, forbade them neuerthelesse to stampe their money with any other marke or figure, than with his owne image, in stead of the forme of a Gibbet, which they before gaue, and yet giue vpon their money, as the marke of iustice.
- C** Now if the power of coyning money be one of the rights and markes of Soueraignty; then so is also the power to appoint measures and weights; although that by the customes receiued there is none so pettie a lord, which pretendeth not to haue this right. Whereby it commeth to passe, that by the infinit varietie of weights and measures, the Commonweale taketh no small harme. Which was the cause that the kings *Philip* the Faire, *Philip* the Long, and *Lewes* the xj had resolued, that there should be in this kingdome but one manner of weight and measure: and now the commissi-
oners appointed for that purpose, by comparing them together, had made euen all the measures and weights of this realme, and brought the matter to good effect, had not king *Lewes* by death bene taken away, before it was fully perfected: yet the booke whereby the same might more easily be brought to passe, is yet extant in the court of accounts: howbeit that the execution thereof proued more difficult than was thought it would haue done, by reason of the great contention, and suites that thereof arise. Neuerthelesse we read in *Polybius*, that the same was wel executed in all the cities of Achaia, and Morea, where they had not but like money, like weights, like measures, customs, lawes, religion, officers, and gouernment.
- D** As for the right to impose taxes, or imposts vpon the subiects, is as proper vnto soueraigne maiestie, as is the law it self: not for that a Commonweale cannot stand without taxes and tallages, as the President the M. hath well noted, that taxes were not leui-
ed in this realme, but since the time of Saint *Lewes* the king. But if it must needs be that they must for the publike necessitie be leui-
ed or taken away; it cannot bee done but by him that hath the soueraigne power; as it hath bene iudged by a decree of parliament, against the duke of Burgundie; and many times since, aswell in the high court of parliament, as also in the priuie Councell. And for that diuers particular lords, cities, and corporations, vnder shew of the common good, haue imposed diuers taxes and payments vpon their people: king *Charles* the ninth, by a generall edict by him made in the parliament at Orleans, expressly forbiddeth them so to doe without leane: albeit that for the common necessitie they be borne withall in so doing without commission, so that they exceed not the summe of twentie five pounds. And after-
ward

King *Seruius* the first that coined monie in Rome.

Plutarch in T. 1. 10.

Philip of Macedon the first that coined monie in Greece with his owne image thereon.

The eight markes of soueraignty.

The great varietie of waights and measures hurtfull to a commonweale.

Lib. 3.

The ninth markes of soueraignty.

ward the same edict was more straitly againe renewed at *Moulins*, well agreeing both with law and equitie. And although that the Roman Senat in time of warres, yea and the Censors themselues imposed certaine taxes and payments, which could hardly haue bene extorted from the bodie of the whole commonaltie: yet so it was, that that still passed by the sufferance of the Tribunes of the people, who oft times also opposed themselues against the same. Yea and that in such sort, that they presented a request vnto the people, that from that time forward no man vpon paine of his head should bee so hardie, as to cause any law to be passed in the campe: for that the Senat by subtill meanes had there in the campe at *Surrium*, caused to be published that notable imposition, which they called *Vicesima Manumissorum*, that is to say, the twentieth part of the goods of them that were manumised; vnder colour that it was to pay the armie withall: which thereunto right willingly agreed: and so suffered the law to passe. And in the second Carthaginensian warre, at such time as there was great want of coyne in the common treasurie; there was by a law made a taxe generally imposed vpon euery man, which was by another contrarie law againe repealed, after the returne of *Paulus Æmilius*, who with the spoyles of *Perseus* king of Macedon, so filled the citie, and euerie priuat man also with wealth, as that the people was from that time discharged of all taxes and payments, vntill the Triumvirat ciuill warre, about an hundred yeares after, vntill that such new taxes and tributes as by the power or couetousnes of former tyrants had bene imposed vpon the people, were by the good * emperour *Pertinax* againe eased and taken away.

But here might some say, diuers paticular lords here and there, to exact not onely customes, but tributes also, not onely in Fraunce, where (*as Caesar* hath most truly written) nothing is more contemptible than the vulgar people: but in England and Germanie, and much more straitly in Denmarke, Polonia, and Norway: which impositions and tributes, are confirmed and growne strong, both by long prescription of time, and vse of iudgements: yea and that to be lawfull, euen vnto such as haue neither soueraigntie, nor any iurisdiction at all, the court of Paris hath adiudged. Whereunto I aunswere, that the thing hauing begun by abuse, and by long continuance of time inueterat, hath well some colour of prescription: but yet an abuse can neuer be so overgrowne, but that the law shall euer be of greater force than it; whereby the abuse is to be reformed: and for that cause it was forbidden by an edict of *Moulins*, that any tribute should be exacted of the subiects, vnder the colour of prescription: for that many lawyers and iudges haue exposed all the strength and force of iudgements onely in prescription alone: not regarding whether that which is in question can of right bee prescribed or not.

Now if *Pompeius* hath denied, that the common high way can by any continuance of time be prescribed vpon: why then should these men thinke the rights of customes and tributes, or of soueraigne maiestie to be prescribed against; and yet the common high way belongeth not vnto the right of Soueraigntie. Wherefore it were better to confesse (which yet without deadly wrong cannot bee done) those aforesaid things which we haue spoke of, not at all to belong vnto the right of soueraigne maiestie: or else to say that the kingdome it selfe, and in briebe the royall crowne and scepter might be prescribed vpon. The same we are to thinke also of the exemptions from the payment of taxes and tributes, which no man can graunt vnto another man, but hee which hath the soueraigne power in a Commonweale: which is also provided for in an article of the edict at *Moulins*: neither is that enough, but that the charters of such immunities graunted, must be also entolled in the records of the court of accounts, and be allowed of by the iudges of the court of Aydes. But what kind of taxes and tributes

The Romaine
commonweale
greatly relieved
by the great
riches by *Paulus
Emilius* brought
to Rome, after
the ouerthrowe
of king *Perseus*

* *Herodians*.

there

A there be, and how farre they are to be exacted, shall in due place be declared: let it now for the present suffice, it to appeare, that right and power to belong only vnto Soueraigne maiestie.

Now many there be that thinke also, that to haue power to lay an imposition vpon salt, is a more proper marke of Soueraigntie than the rest: and yet therof giue no good reason. For almost in euery Commonweale we see salt pits and mines both to be, & alwayes to haue bene in priuat mens possession, not onely vpon the sea coasts towardes the South (for toward the north it hardeneth not with the Sunne) but also in the mediterranean regions, wherein mines of salt, and wels of salt water are found. As in Spaine; in Italie, Fraunce, and the countrey of Cracouia, is found salt in great abundance. Yea
 B euen at Rome we read, some priuat men to haue had salt mines. Yet true it is, that manie soueraigne princes haue of auntient time imposed tribute vpon salt; as did *Lyfima-chus* king of Thrace, *Ancus Martius* king of Rome, *Philip Valois* king of France, who were the first that exacted tribute vpon salt, euery one in his owne kingdome. And albeit that by the law Valeria the people of Rome were freed from such customes & tributes, as had by their kings bene brought in and imposed vpon them: yet *Liuius* the Censor thought no imposition in the Commonweale lighter or fitter, than that which was laid vpon salt; who thereof surnamed *Liuius Salinator*, (or *Liuius* the Salter.) For why that imposition little or nothing impaireth the right of priuat men: but that they still remaine lords and owners of their salt pits, as well as of their other mines, sa-
 C uing vnto the Soueraigne prince his rights and customs.

But forasmuch as the sea it selfe cannot be proper vnto any priuat man, the rights thereof belonging vnto such soueraigne princes as dwell thereby, who may lay impositions thereupon thirtie leagues off from their owne coast, if there bee no other soueraigne prince neerer to let them, as it was adiudged for the duke of Sanoy. Neither can any but a soueraigne prince giue them letters of safe conduct; which the Italians call *Guidage*; nor yet of right take any wracke: as is expressly provided for by the decree of the emperour *Fredericke* the second. A thing truly most barbarous, and not in auntient time of soueraigne princes vsed, shamefully to suffer the reliques of the goods and fortunes of such as haue by shipwracke miserably perished, and whome we ought with
 D some part of our owne to releue, being cast vpon our coast, and which ought with good faith to be againe restored, to be most shamefully I say spoyled. Yet such is the manner of all that haue ports vpon the sea, in this case to shew such extremitie as well vnto their owne people, as to straungers. But by what right doe you aske? The common error maketh the right: or if the wrong be done not by error, but by knowledge, then it is meere wickednesse, masked with the vaile of error. For I haue heard that at such time as the emperours ambassadours complayned vnto *Henry* the second, the French king, in the yeare 1556, that two gallies which had suffered wracke vpon the coast of Corcyca, were taken by *Jordan Vrsin*, requesting to haue the same gallic againe restored: he was answered by *Anne Mommerance* then constable of Fraunce, that
 E wracks by the law of all nations belonged vnto such princes as ruled vpon the coasts whereon they were cast. Which law was so strong, as that *Andrew Doria* neuer so much as complained of the losse of two of his gallies, confiscated by the prior of Capona the French Admirall, for casting anchor onely vpon the land without leaue, which of auntient time men by the law of nations might right lawfully do. And whereas by the Roman law it was lawfull for any man to seise vpon things lost, or vpon goods or lands vacant and forbidden: now it is onely lawfull vnto them which haue the soueraigne power, or some other iurisdiction by law or custome confirmed vnto them, to take vnto themselues things lost or forsaken, and that after a certaine determi-

To lay an imposition vpon salt, no marke of soueraigntie.

The kings which layed the first imposition vpon salt.

How farre of a soueraign prince may lay impositions vpon the sea, from his owne coast.

Wrackes by what small right they belong to soueraigne princes.

nat time : which in a thing moueable is defined to be fortie dayes after the publication of the thing lost or forsaken : except it be in the meane time by the right owner challenged. And as for vacant possessions, the Roman emperours haue decreed, That they may at any time within foure yeares be againe recouered by the prince : but that after foure yeares once expired, a man may prescribe euen against the common receipt. But forasmuch as these things are also graunted vnto priuat men, they no more belong vnto the right of Soueraigntie, than it doth to haue a receipt of his owne : which is not a thing common vnto priuat men onely, but euen the prince himselfe hath his owne receipt diuided from the publike receipt ; and his owne possessions seperat apart from the possessions of the Commonweale : and so diuers officers were by the Roman emperours appoynted vnto both. So *Lewes* the xij the French king, hauing obtained the crowne, erected the chamber at Blois, for his particular demaines of Blois, Montfort, and Cousi, which he commaunded to be diuided from the dukedome of Orleans, and the other publike possessions ; and the accounts thereof to be kept apart by themselves. But amongst the rights of receipt, there be some that belong not, but vnto the soueraigne prince onely : as the confiscation of goods or lands in cases of high treason, vnder which are comprehended also such as be conuicted of impietie against God, which we call Heresie ; or of offence against the Commonweale, as in coyning false money. Howbeit if our late lawyers haue with too much learned and curious subtiltie in an hundred and fiftie chapters found out the lawes and rights of the receipt : but yet so as that of one they make ten, that so they may seeme the more : so confounding and mingling the rights of soueraigntie with the rights of receipt (which are also common vnto priuat men) and publike things with things priuat. The other rights of receipt are almost all common vnto the soueraigne prince, with other lords iusticiaries, as to haue right vnto treasure found ; and the power to graunt Faïres, which was in auncient time a marke of Soueraigntie ; as now it is at this present comprised vnder the case of priuileges.

To grant letters of Marque, or of reprisall now to belong only vnto the soueraigne prince.

As for the right of Marque, or of Reprisall, which soueraigne princes haue proper vnto themselves from all others, it was not of auncient time proper vnto a soueraigne prince ; but permitted vnto euery man without leaue, either of magistrat or of prince to take reprisall, which the Latines called *Clarigatio* : howbeit that the princes by little and little gaue this power vnto magistrats and gouernours ; and in the end reserued this right vnto their owne soueraigntie, for the better assurances of their peaces and truces, which were oftentimes broken by the rashnesse of some particular men, abusing this right of Marque or Reprisal. In this realme the parliament graunted letters of Marque, as we find by the decree of the xij of Februarie 1392, vntill that *Charles* the eight by an especiall edict, reserued that power vnto himselfe, in the yeare 1485. It is also of our men properly called a roialtie or right of soueraigntie, whereby the prince, a bishop being dead, taketh vnto himselfe the profits of the bishopricke, in the meane time whilst another bishop is chosen by the chapter, or by the prince himselfe appointed : and so being sworne, is put into possession thereof : but forasmuch as that in all places is not obserued ; and few there be that haue that right, it is not to bee accounted among the markes of soueraigntie.

Small things and yet proper only vnto soueraigne princes.

There be many other right small things, which are accounted proper vnto princes, as things concerning their greater reputation and dignitie, as in their edicts, mandats, and commissions to vse these words, *Dei Gratia*, by the grace of God ; which wordes *Lewes* the xj, the French king, forbade the duke of Britaigne to vse in his life ; although we read them to haue bene vsed almost in all auncient leagues ; and attributed not vnto great princes and commaunders onely, but euen to the least magistrats and depu-

ties

A ties also. The kings of Fraunce haue also referued vnto themselues the right to seale with yellow waxe, a thing forbidden their nobilitie and other their iusticiaries; which *Lewes* the xj by speciall priuilege and letters patents graunted as a great fauour vnto *Renate* of Aniou, king of Naples and Sicilie, that in sealing he might vse yellow waxe: with like priuilege vnto his heires also, confirmed in parliament the 28 of Iune 1465. He which copied the *Comentaries* of *Tillet*, calleth it white waxe, which I find our kings neuer to haue vsed.

To seale with yealowe wax graunted vnto a great prince as a fauour.

But much more it belongeth vnto the royaltie of soueraigne maiestie, to be able to compell the subiects to vse the language and speech of him that ruleth ouer them: which the Romans so commaunded their subiects, that euen yet at this day they seeme farre and wide to raigne ouer a great part of Europe. But the king of the *Hetruscians*, who last was by the Romans ouercome in all other things yeelded vnto them, but in that he could in no wise be perswaded to yeeld, to chaunge his countrey language, and to receiue the Latine tongue, as *Cato Censorius* writeth. But France for that it swarmed as it were with citisens of Rome, did so confound the Latine tongue, with the naturall countrey speech, as that the auntient writers called our countrey men *Romans*; yea the iudgements and decrees of the higher court of parliament, *viz.* of Paris were set downe in Latine (which the presidents and gouernours were commaunded to doe) vntill that *Francis* the first had giuen order that they should vse their owne countrey language: as by like edict *Edward* the third commaunded the iudges and magistrats of England, to giue iudgements in their owne countrey language, when as before they vsed the French. And at such time as the *Saracins* had subdued the greatest part of Asia, and Aftike: they withall most farre spred their language and religion euen into the farther part of Spaine: which when *Philip* king of Spaine would gladly haue suppressed, yet could he by no meanes effect it.

To be able to chang the subiects language a marke of soueraigntie.

The cause whie the French tounge is so much confounded with latine.

C Some amongst the markes of Soueraigntie, haue put also the power to iudge and decide matters, according to their conscience; a thing common to all iudges, if they be not by expresse law or custome prohibited so to doe. And that is it for which wee oftentimes see in the edicts vpon the articles committed to the arbitrarie iudgement of the iudges, this clause added, *wherewith we haue charged our conscience*. For if there be either custome or law to the contrarie, it then is not in the power of the iudge, to passe beyond the law, or to dispute against the receiued law. For that was a thing forbidden by the most politike lawes of *Lycurgus*: and also by the most auntient lawes of Florence, whereas a soueraigne prince may do both, if he be not by the law of God forbidden; whereunto we haue before showed him to be still subiect.

A soueraigne prince may according to his conscience decide matters beyond either lawe, or custome.

D As for the title of Maiestie it selfe, it sufficiently appeareth, that it onely belongeth to him that is a soueraigne prince: so that for him that hath no soueraigntie to vsurpe the same, were a verie absurd thing: but to arrogat vnto himselfe the addition of most excellent and sacred maiestie, is much more absurd; the one being a point of lightnes, and the other of impietie: for what more can we giue vnto the most mightie and immortal God, if we take from him that which is proper vnto himselfe? And albeit that in auntient time neither emperours nor kings vsed these so great addition or titles: yet the German princes neuerthelesse haue oft times giuen the title of Sacred Maiestie vnto the kings of Fraunce; aswell as vnto their emperour. As I remember my selfe to haue seene the letters of the princes of the empire, written vnto the king, for the deliuerance of countie *Mansfeld*, then prisoner in Fraunce: wherein there was sixe times *V. S. M.* that is to say, *Vestra, Sacra, Maiestas*, or Your Sacred Maiestie; an addition proper vnto God, apart from all worldly princes. As for other princes which are not soueraignes some vse the addition of *His Highnesse*, as the dukes of *Lorraine, Sauoy, Mantua, Ferrara,*

The title of maiestie proper to soueraigne princes.

Titles dewe to God be seeme not princes.

ra, and Florence : some of *Excellencie*, as the princes of the confines ; or else of *Serenitie*, as the duke of Venice. F

Markes of soueraigntie ought to be such as are proper to all soueraign princes in generall.

Soueraign rights cannot by the prince be alienated neither by any other be prescribed against.

I omit here many other meaner rights which Soueraigne princes euery one of them pretend in their own countries, in number infinit, which yet are no marks of soueraignty, such as ought to be proper to all soueraigne princes in generall, apart from all other lords, iusticiaries, magistrats, and subiects, and which are of their owne nature incesible and not to be alienated from the soueraigntie : nor by any course of time to be prescribed. And if the soueraigne prince shall giue or grant any lands or lordship of the publique possessions, vnto any, with iurisdiction and power to vse the same, in such sort as he himselfe might : albeit that the royall rights properly belonging vnto soueraigntie, be not in the charter or writings expressly excepted : yet are they alwayes by the verie law it selfe thought to be excepted, which by an old decree of the counsell of France was decreed not only for graunts made vnto priuat men, but also for such gifts or grants as were made vnto the princes themselues descended of the royall blood and familie : which royall rights can by no tract of time whatsoeuer, be prescribed against or vsurped vpon. For if publique place, or the publique possessions of the Commonweale cannot be got by any prescription : how much lesse then can the royalties proper vnto soueraigne maiestie be prescribed vpon. But it is certaine by the edicts and lawes concerning the publike demaine, that it is not to bee alienated, neither by any tract of time to be gained. Which is no new thing : For it is two thousand yeares agoe since that *Themistocles*, making seisure of certaine lands belonging vnto the publike demaine, vsurped by some priuat men ; said in the oration which hee made vnto the people of Athens, *That mortall men could nothing prescribe against the immortall God : neither could priuat men in any thing prescribe against the Commonweale*. The selfe same speech *Cato* the Censor vsed also in the Oration which he made vnto the people of Rome, for the reuniting of some part of the publike demaine, vsurped vpon by certaine priuat men. How then can a man prescribe vpon the rights and markes of Soueraigntie ? And that is it, for which in law he is guiltie of death, that in any sort vseth the markes properly reserued vnto the maiestie of a Soueraigne prince. And thus much concerning the principall points of Soueraigne maiestie, in as brieve manner as I possibly could, hauing handled this matter more at large in my booke *De Imperio*. And I forasmuch as the forme and estate of a Commonweale dependeth of them that haue the Soueraigntie therein : Let vs now see how many sorts of Commonweales there be. H

Finis Lib. Primi. K

THE

A



B THE SECOND BOOKE OF
OR CONCERNING A
COMMONWEALE.

CHAP. I.

¶ Of all sortes of Commonweales in generall, and whether there bee
any moe then three.

C



Orasmuch as we haue before sufficiently spoken of Soue-
raigntie, and of the rights and markes thereof; now it be-
houeth vs to consider who they bee which in euery Com-
monweale hold that Soueraigntie; thereby to iudge what
the estate is: as if the Soueraigntie consist in one onely
prince, wee call it a Monarchie: but if all the people bee
therein interessed, we call it a Democracie, or Popular
estate: So if but some part of the people haue the Soue-
raigne commaund, we account that state to be an Aristo-

D

cracie. Which words we will vse, to auoide the obscuritie and confusion which might
otherwise arise, by the varietie of gouernours good or bad: which hath giuen occasion
vnto many, to make moe sorts of Commonweales than three. But if that opinion
should take place, and that we should by the foot of vertues & vices, measure the estate
of Commonweales; we should find a world of them, and them in number infinit.
Now it is most certaine, that to attaine vnto the true definitions and resolutions of all
things, wee must not rest vpon the externall accidents which are innumerable, but
rather vpon the essentiall and formall differences: for otherwise a man might fall into
an infinit and inextricable labyrinth, whereof no knowledge is to bee had, or certaine
precept to be giuen. For so a man should forge and fashion infinit numbers of Com-
monweales, not onely according to the diuersitie of vertues and vices; but euen accord-
ing to the varietie of things indifferent also. As if a Monarch were to bee chosen for
his strength, or for his beautie, for his stature, or for his nobilitie, or riches, which are all
things indifferent; or for his martiall disposition, or for that he is more giuen to peace,
for his grautie, or for his iustice, for his beautie, or for his wisdom, for his sobrietie, or his
humilitie, for his simplicitie, or his chastitie; and so for all other qualities, a man should
so make an infinitie of Monarchies: and in like sort in the Aristocratique state, if some
few of many should haue the soueraigntie aboue the rest, such as excelled others in ri-
ches, nobilitie, wisdom, iustice, martiall prowesse, or other like vertues, or vices, or
things indifferent, there should thereof arise infinit formes of Commonweales: a thing

E

R ij

most

That there are
but three sorts of
commonweales
viz: a Monarchie
a Democratic;
and an Aristocra-
tie.

The diuers opi-
nions of the au-
tient writers cen-
cerning diuers
sorts of com-
monweals.

No fourth estate
of a common-
weale to be made
of a confusion of
a Monarchie, a
Democratic and
an Aristocratie.

most absurd, and so by consequent the opinion whereof such an absurditie ariseth, is to be reiected. Seeing therefore that the accidentall qualitie chaungeth not the nature of things: let vs say that there are but three estates or sorts of Commonweales; namely a Monarchie, an Aristocratie, and a Democratic. We call it a Monarchie, when one man alone hath the soueraigntie in a Commonweale, in such sort as wee haue aforesaid. And a Democratic, or Popular estate, when all the people, or the greater part thereof hath in it the soueraigne power and commaund, as in one bodie. The Aristocratie is, when the lesler part of the people hath the Soueraigntie, as in one bodie, and giueth lawes vnto the rest of the people, whether it be in generall, or in particular: all which things are of themselves more cleerer than the day. And true it is, that the writers of auncient time do therein well agree, that there can be no lesse then three kindes or sortes of Commonweales: Whereunto some others haue ioyned a fourth, composed of all three: and some other a fift, diuers from all the rest.

Plato hath vnto these three well adioyned a fourth kind, that is to wit, where some few of the better sort excelling the rest in vertue, haue the soueraigntie: which for all that in proper tearmes, is nothing else but a pure *Aristocratie*: how be it, he hath not receiued the mixture of the aforesaid three states, for an other diuers forme of a Commonweale. *Aristotle* beside these three kinds of Commonweales which we haue spoken of: and the fourth also named by *Plato*, setteth downe a fift kind of Commonweale, by confounding together the three former states, and so maketh fife sorts of states or Commonweales. But *Polybius* reckneth vp seauen sorts; three commendable: three faultie: and the seauenth compounded of the mixture of the three first. *Dionysius Halycarnassens*, *Marcus Tullius*, *Thomas More*, *Gaspar Contarenus*, *Frauncis Machiauell*, and many other following *Polybius*, haue as it were with one consent approoued his opinion, which in deed is most auncient, and tooke not beginning from *Polybius*, although he would seeme to be the authour thereof, neither from *Aristotle*, but aboue foute hundred yeares before *Aristotle*. *Herodotus* (the father of antiquitie) writeth, that fourth kind of a Commonweale, confused of the three other, to haue ben commended of many, and yet for all that contenting himselfe with the three former kinds, reiecteth the rest as imperfect: And were it not that I were not onely by probable arguments, but euen by forcible reasons drawne from that opinion of *Polybius*, *Tullie*, and the rest, I could easilie haue suffered my selfe to haue been ouercome by the authoritie of so great and graue men. It behoueth vs therefore by liuely reasons to shew them to haue erred and been deceiued, which haue brought in that fourth kind of Commonweale composed of the mixture of the other three: which I trust the more plainly to bring to passe, if I shall vse the same examples in refelling of them, that they them selues haue before vsed. For they them selues haue set downe the Lacedemonian, Roman, and Venetian Commonweales to haue been compounded and sweetely mingled with the three kind of states, that is to say, with the Monarchie, Aristocratie, and Democratic. But when *Plato* said, the best kind of a Commonweale to be composed of the mixture of a Monarchie and Democratic, he was therefore forthwith reprehended by his scholler *Aristotle*, saying, that of these two could no commendable state be made, and that therefore it was better of all three estates to make a fourth: wherein *Aristotle* reasoneth also against himselfe; for if he confesse no good thing possiblie to be made of two extreames; what shall then bee made of three confounded amongst them selues? And for that this opinion for the making of a fourth estate of the confusion of the rest; may moue great troubles in Commonweales, and therein worke maruelous effects, it is requisite for vs well to examine the same: For when states of Commonweales are in them selues contrarie, as a Monarchie and a Demo.

A Democratic, they are by contrarie lawes and ordinances to be gouerned. The Florentins throughly perswaded of that opinion of the auntients for the mingling of the three estates together, as the best forme of a Commonweale; when they moued with the seditious sermons of *P. Soderin*, and *Hierome Sauonarola*, had translated the soueraignetic or chiefe power of the Commonweale vnto the people: thought it best to keepe the rout of the vulgar and common people from bearing of offices and rule, and altogether from the affaires of state: that so the chiefe managing of matters might be reserued vnto the more auntient sort of the citizins, and such as were of greater wealth and abilitie then the rest: who yet had not power to dispose of all matters, but onely of such things as were the chiefe, viz. the making of lawes, the creating of magistrats, and disposing of the common treasure: reseruing the rest vnto the Senat and magistrats, that so they might inioy that moderat state of a Commonweale, wheteof they had so strongly dreamed. And certes if of the three estates moderately mixed might a fourth state arise, it should haue a certein power by nature diuers from the rest: as we see in Harmonicall consent, composed of Arithmeticall and Geometricall proportion artificially confused; yet quite differing from them both: so as if the mixture of things of diuers and contrarie natures, ariseth a third all together differing from the things so together mixed. But that state which is made of the mixture of the three kinds of Commonweales, differeth in deede nothing from a meane popular state; For if three cities, whereof one of them is gouerned by a king, and so a Monarchie; the second by the nobilitie, and so an Aristocratie; the third by the people, and so a Democracie; should be confounded, and so thrust together into one and the same forme of a Commonweale, and so the chiefe power and soueraignetic communicated vnto all: who is there that can doubt but that that state shall be all together a state popular: except the soueraignetic should by turnes be giuen; first to the king, then to the nobilitie, and afterwards to the people; As in the vacancie of the Roman kingdome, the king being dead, the Senators ruled by turnes: yet must they needes againe fall vnto one of these three kinds of a Commonweale which we haue spoken of: nether could this alternative manner of gouernement be of any long continuance, either yet more profitable to the Commonweale, then as if in an euill gouerned familie, the wife should first commaund the husband; then the children them both; and the seruants after them to dominier ouer all.

B

C

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But to confound the state of a monarkie, with the Popular or Aristocratical estate, is a thing impossible, and in effect incompatible, and such as cannot be imagined. For if soueraignetic be of it selfe a thing indivisible, (as wee haue before showed) how can it then at one and the same time be diuided betwixt one prince, the nobilitie, and the people in common? The first marke of soueraigne maiestie is, to be of power to giue lawes, and to commaund ouer them vnto the subiects, and who should those subiects bee that should yeelde their obedience vnto that law, if they should also haue the power to make the lawes? who should he be that could giue the law? being himselfe constrained to receiue it of them vnto whom he him selfe gaue it? So that of necessitie we must conclude, that as no one in particular hath the power to make the law in such a state, that then the state must needes be a state popular. Now if we shall giue power vnto the people to make lawes, and to creat magistrats, and not to meddle in the rest; we must yet needes confesse that such power giuen vnto the magistrats belonged vnto the people, and that it is not giuen but as in trust vnto the magistrats: whom the people may againe displace, euen aswell as they placed them, in such sort as that the state should alwaies be popular.

E

And to proue that which wee haue said to be true, let vs take the same examples that

That the Lacedemonian commonweale was meere aristocraticall, and not composed of the confusion or mixture of the three sorts of commonweales.

Gasper Contareus, Nicholas Machiavel, Sir Thomas Moore. The cause that induced Polybius and others to say that the Lacedemonian estate was a state composed of the mixture of the three states and forms of a commonweale. The historie of a Lacedemonian commonweale.

Polybius, *Contareus*, and the rest haue left vs; They say that the state of the Lacedemonians was composed of all the three kinds of states which we spoke of: For that in that Commonweale they had two kings representing a Monarchie; eight and twentie Senators representing an Aristocratie; and five Ephori figuring and patronizing the popular estate. But what will these men then say to *Herodotus*, who bringeth the Lacedemonian estate for an example of a most pure Aristocratie: what will they also aunswere vnto *Thencidides*, *Xenophon*, *Aristotle*, and *Plutarche*: who speaking of the warres of Peloponnesus (which continued twentie yeres betwixt the Popular and the Aristocratique Commonweals) say, that the whole drift of the Athenians and their allies was to chaunge the Aristocracies into Democracies, as they did in Samos, Corfu, and all the other cities by them subdued. Whereas contrariwise the Lacedemonians purpose and intention was to chaunge the Popular states into Aristocracies, as in deede they did in all the cities of Greece after the victorie of *Lyfander*; yea euen in the citie of Athens it selfe, where after he had layed the wals euen with the ground, he tooke the soueraignetic from the people, and gaue the same vnto thirtie citizens, (who are therefore of the Athenians called the thirtie Tyrants) to rule and gouerne in such sort and manner as they did amongst the Lacedemonians, where so many, and no moe had the gouernement of the state. But among the citizens of Samos, the Siæyons, the Æginits, the Mylefians, and other cities of Ionia and the lesser Asia, they gaue the soueraignetic vnto Tenne principal men, with one chiefe Captaine ouer them, for the managing of the warres; calling hoame againe such as had bene banished for holding with the Aristocratie, and driuing into exile them that were chiefe of the popular factions.

What will they also say to *Maximus Tyrius*, who reckning vp the States which held the pure Aristocratie first of all nameth the Lacedemonians, and after them the Theffalians, the Pellenians, the Cretentians, and the Mantineans. We must first conuince these so many and so famous authours of vntruth, before we can thrust the Lacedemonians from their Aristocratie: which writets liuing almost in the same time wherein the Athenian and Lacedemonian Commonweales flourished, and beeing themselves Grecians, were like more certainly and truely to know these things, than a Venerian Senator, a Florentine, or an English man.

What was it then that deceived *Polybius*, who was himself a Megalopolitan, borne neere vnto the Lacedemonians? Truely it was euen the name of the Lacedemonian kings. For *Lycurgus* hauing altered the state of the Commonweale, and by the good will and consent of the kings themselves (who deriued their pedegree from *Hercules*) hauing translated the soueraignetic vnto the people, left vnto the kings, but the bate name and title onely, and to be the generals in warres. For why the regall power was now before alreadie sore shaken and weakned: after that *Aristodemus* king of Lacedemonia, had at once left his two sonnes to raigne together ouer the Lacedemonians (to the imitation of the Messenians, ouer whome *Amphareus* and *Leucippus* together raigned) who whilest they would both be kings and commaund ouer all, could neither of them so be, but by their ielous conceits and contentions, drawing the state into factions, gaue occasion to *Lycurgus*, being descended also of the same stocke with them, to ouerthrow their royall power, leauing vnto them and their house nothing els but the name and show of kings, giuing the rest vnto the Senat and the people. But as in Athens and Rome, after the kings were thence driuen out, they yet left the name of a king vnto a certaine priest, whome they called King of the Sacrifices, to doe a certaine sacrifice, which the king himselfe onely had in former time done: Which priest for all that was himselfe subiect vnto the great bishop, and could not (as *Plutarch* saith) haue

any

A any estate, or beate any office as the other priests might : euen so did *Lycurgus* vnto the two kings of Lacedemonia, who vpon the matter were nothing but Senators, hauing but their voyces with the rest, without any power at all to commaund ; but to the contrarie were themselues constraigned to obey the commaundements of the Ephori, who oftentimes put them to their fines, yea and condemned them to death also, as they did the kings *Agis* and *Pausanias*, the soueraignie still resting with the people, in whose power it was to confirme or infirme the acts and decrees of the Senat. *Thucydides* also himselfe reiecteth the opinion of them which thought the kings each of them to haue had two voyces. But about an hundred yeares after the popular state, ordained, was againe chaunged by the kings *Polydorus* and *Theopompus* ; seeing it to bee an
B hard matter to call the people together, and a great deale harder to rule them by reason, being assembled ; oftentimes at their pleasure reuersing the most wholesome and religious decrees of the Senat. Wherefore they chaunged that popular gouernment into an Aristocratie, subtilly wresting an Oracle of *Apollo* to that purpose : whereby the God (as they said) commaunded that from thenceforth the gouernment of the Commonweale should be in the power of the Senat : and yet to please the people so grieved to haue lost their power, they gaue them leaue to draw out of themselues five iudges, called Ephori, as Tribunes or parrons of the people, who should examine the sayings, doings, and deuises of the kings, and by all meanes let them from the exercising of tyranny. And these Ephorie, euerie ninth yeare once, vpon some cleere night gazing
C vpon the firmament (as *Plutarch* saith) if they then saw any starre, as it were, sparkle or shoot, they thereupon committed their kings to prison, who might not thence be deliuered, vntill the Oracle of *Apollo* had so declared. In like manner the Phylactes or Gailor, euerie yeare had the king of Cumes in prison, vntill the Senat had determined what should be done with him. Now this state of the Lacedemonian Commonweale endured about five hundred yeares, vntill the time of *Cleomenes*, who hauing slaine the Ephori and the Senatours, and so oppressed the Commonweale, tooke vppon himselfe the soueraignie, and so held it vntill such time as he was ouercome by *Antigonus* king of Macedon ; who hauing vanquished him, restored that Commonweale into the state it was before : howbeit that twentie yeares after, being fallen againe into the power of
D *Nabis* the tyrant, who was afterward slaine by *Philopomenes*, that Commonweale was vnitid vnto the state of the Achæans, whereof it was a prouince, vntill that about thirty yeares after, it was by *Gallus* the Rôman Proconsull taken from the Achæans, and by Rôman emperours set at libertie. Thus in few words you may see the true historie of the the Lacedemonian Commonweale, for most part taken from *Xenophon*, *Thucydides*, *Livy*, & *Polybius*, whereof yet no man hath more curiously written than *Plutarch*, who out of the Lacedemonian acts and publike records, hath corrected such things as of others haue bene but slightly or falsly set downe and reported : which hath giuen occasion to many to be deceiued, and to thinke that state to haue bene mingled of the three diuers kinds of Commonweales. Which is plainly to be gathered out of *Livy*, where he bringeth in *Nabis* the first tyrant of Lacedemonia, thus speaking to *Titus Flaminius*, *Noster legulator Lycurgus, non in paucorum manu Rempub. esse voluit, quem vos Senatum appellatis, nec eminere vnum aut alterum ordinem in ciuitate, sed per aequalitatem fortunæ & dignitatis fore credidit, ut multi essent qui pro patria arma ferrent*. Our lawgiuer *Lycurgus* (saith he) would not the state of our Commonweale to bee in few mens hands, which you call the Senat, neither would haue any one or other order to excell the rest in our citie ; but by the making equall of mens fortune and dignitie, thought it would come to passe, that there should be many which would beare armes for their countrey. Thus he couereth his tyranny with the show of a popular state ;
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when as then there was no popular estate at all; yet in that he said most truly, that *Lycurgus* at the beginning gaue the soueraigntie vnto the people. F

But let vs see the rest. They also haue put for example the Roman Commonweale, which they said to haue bene mingled of the three kinds of Commonweales: For so saith *Polybius* (who was maister to *Africanus* the Great) Wee see (saith hee) the regall power in the Consuls, the Aristocratie in the Senat, and the Democratic in the people.

The Romaine
commonweale
a meare popular
state and not
composed of the
three formes of
commonweals.

Vnto whome do plainly assent *Dionysius Halycarnassens*, *Cicero*, *Contarenius*, *Sir Thomas More*, and many others: which opinion for all that is neither grounde vpon truth nor reason. For where is this Monarchie, that is to say, the soueraigne gouernment of one man? which in the two Consuls cannot bee imagined. But soueraigne maiestie, if it were in the consuls could not possibly be diuided betwixt two, for the indiuisible nature thereof, which it seemeth more probable and reasonable to attribute the same vnto the dukes of Genua or Venice. But what regall power could there bee in the two Roman Consuls? who could neither make law, nor peace, nor warre, neither any great officer, neither graunt pardon, neither take a peny out of the common treasure, neither so much as to whip a citisen, if it were not in time of warre, without leaue of the people: which hath bene a power alwaies giuen to all gouernours of armies, whome we also may so call kings, and with greater appearance than the Consuls, who had not power but the one of them after the other, and that but for the space of one yeare onely. The constable of Fraunce, the chiefe Bassa of the Turkes, the Bethudere in Æthiopia, the Edegnate in the kingdome of Africke, haue ten times more power than had the two Consuls together, & yet for all that they are but subiects & slaues to other princes, as were the Consuls subiects and seruants vnto the people. And to what purpose say they, that the Consuls had such royall authoritie, seeing that the least of the Tribunes of the people might imprison them. As did *Drusus* the Tribune, who by a sergeant tooke *Philip* the Consull by the collar, and cast him in prison, for that hee had interrupted him, as he was speaking vnto the people: and that he might lawfully so doe, shall hereafter be declared. The power of the Consuls was to lead the armies, war being before denounced, to assemble the Senat, to present the letters of the captaines and allies vnto the Senat, to giue audience vnto ambassadours before the people or the Senat, to call together the great estate, and to demaund the aduise of the people, about the election of officers, or promulgation of lawes; who yet standing, spake vnto the people sitting, and their mases downe, in token of their subiection vnto the people. The same authoritie with the Consuls had the chiefe gouernour of the citie in their absence. Ioyne hereunto also, that the Consuls had power but for one yeare: wherefore I leaue this opinion as scarce worthy the refuting. G

No soueraigntie
in the Romaine
Consulls

Now as concerning the Senat, which they say to haue had the forme and power of an Aristocratie, it was so farre there from, as that there was neuer priue councill, which had not more authoritie: for it had no power to commaund either particular men, or magistrats: yea the Senators might not assemble themselves, except it so pleased the Consuls, or the Prætor in the absence of the Consuls: insomuch that *Cæsar* a popular man, perceiuing himselfe not gracious with the Senat, oftentimes called the people together in the yeare of his Consulship: but the Senat in all that yeare he assembled but once or twice, still presenting his request vnto the people when he would obtaine any thing: which was no great noueltie, for the Consull for his pleasure to doe, contrarie to the good liking and mind of the Senat. For we read (that the Senat at such time as it was in greatest authoritie that cuer it was) in the daungerous time of the Commonwealth, hauing requested the Consull to name a dictatour, the Consuls would therein doe nothing: insomuch that the Senat hauing no power to commaund them, neither

The smal power
of the Romaine
Senate: and that
therein was no
relembance of
an Aristocratie

any

- A any sergeant or like officer, which are the true markes of them which haue the power to commaund, sent *Seruilius Priscus* with their request vnto the Tribunes in this sort, * *Vos (inquit) Tribuni plebis Senatus appellat, vt in tanto discrimine Reipublice dictatorem dicere, Consules pro vestra potestate cogatis: Tribuni pro collegio pronunciant, placere Consules Senatui dicto audientes esse, aut in vincula se duci iussuros*, The Senat (saith he) appealeth vnto you the Tribunes of the people, that in so great daunger of the Commonweale, you for the great authoritie you haue, would compell the Consuls to nominate a Dictator: whereupon the Tribunes pronounced for their whole societie, that their pleasure was, that the Consuls should be obedient vnto the Senat, or els that they would commaund them to prison. And in another * place the same author saith, That
- B the Senat was of aduise, that the Consull should present the request vnto the people, for the commaunding of him whom they would haue Dictator: which if the Consull should refuse to doe, that then the Prætor of the citie should do it: who if he should refuse also, that then the Tribunes of the people should propound the matter. *Consul rogauit se populum rogaturum, Præto remque rogare vetuit: Tribuni plebis rogauerunt*, The Consull denied to request the people, and forbade the Prætor also to request them, the Tribunes made the request. Wherby it euidently appeareth, that the Senat could not so much as commaund the lesser magistrats, the greater magistrats forbidding them. And as for that which *Polybius* saith, That the Senat had power to iudge of cities and prouinces, and to take punishment of conspirators against the state: * *Linie*
- C showeth it to haue bene otherwise, as when question was made for the chastising of the traitors of Campania, who after the battell at Cannas had ioyned themselves vnto *Hannibal*, an auntient Senator said in full Senat, *Per Senatum agi de Campanis iniussu populi non video posse*, I see not that any thing can by the Senat bee done concerning the Campanians without the commaundement of the people. And a little after, *Rogatio feratur ad populum, qua Senatui potestas fiat statuendi de Campanis*, Let request bee made vnto the people, wherby power may be giuen vnto the Senat, to determine concerning the Campanians. And vpon the request to that purpose presented vnto the people, the people gaue them commision, and commaunded the Senat to proceed against them in this sort, *Quod Senatus maxima pars censet, qui assident id volumus iubemusque*, What the greatest part of the Senat shall agree vppon, wee that here sit will and commaund the same. Neither is *Polybius* lesse deceiued, in saying, That the Senat at pleasure disposed of the prouinces and governments: whereas *Linie* the best author of the Roman antiquities, is of contrarie opinion, writing thus, *Quintus Fuluius postulauit a Consule vt palam in Senatu diceret, permitteret ne Senatui vt de prouincijs decerneret, staturusque eo esset quod censuisset, an ad populum laturus: Scipio respondit se quod e Republica esset facturum. Tum Fuluius a vobis peto Tribuni plebis vt mihi auxilio sitis. Quintus Fuluius* requested of the Consul, that hee should openly say in the Senate whether hee gaue leaue or not vnto the Senat, to determine of the prouinces, and whether he would stand to that it should decree, or els would referre the matter
- E vnto the people: Whereunto *Scipio* answered, That hee would do that which should be for the good of the Commonweale. Then said *Fuluius*, I request you the Tribunes of the people to aid and helpe me. So that it plainely appeareth, the Senat to haue had no power at all, neither the decrees thereof to haue bene of any force, without the consent of the Tribunes of the people: and that the rest they had by the sufferance of the same people. Now he that hath nothing but by sufferance, hath indeed nothing of his owne, as we haue before said Yea such decrees of the Senat, as were confirmed by the consent of the Tribunes of the people, vnto whome they were to be communicated, could not yet be put in execution, except that either the Consuls did so command;

Linii lib. 4.

Linii lib. 2. g.

Linii lib. 2. e.

The people of Rome in their assemblies did sit in token of their soueraignty.

or that the Consuls refusing so to do, the Tribunes themselves propounded the same F
vnto the people. So that in brieft all matters of estate, and namely all the counsels
and decrees of the Senat were of no force or vertue, if the people did not so command:
or if the Tribunes of the people consented not thereunto, as wee haue before touched,
and shall more at large declare in speaking of a Senat. Wherefore in the Roman
state, the gouernment was in the magistrats, the authoritie and counsell in the Senat,
but the soueraigne power and maiestie of the Commonweale was in the people. Ex-
cepting that time wherein the Decemviri contrarie to the law, kept in their hands lon-
ger than a yeare, the soueraigne power to make lawes committed vnto them; from
which they were shortly after by force of armes remoued: for then it might of right
haue bene called an Aristocracie, or more properly to say an Oligarchie. Now as we G
haue before said, that the power of magistrats (how great focuer it be) is not of them-
selves, neither theirs, but as committed vnto them in trust: so at the first, after the dri-
uing out of the kings, the Senators were chosen by the people; who to discharge them-
selves of that labour, committed that charge to the Censors, who were also chosen by
the people, so that vpon the matter all the authoritie of the Senat depended of the peo-
ple, who at their pleasure vsed to confirme or infirme, to ratifie or disanull the decrees
of the Senat.

The Venetian
estate a pure A-
ristocratie and
not composed of
the three formes
of commonweals

The same opinion hath *Contarenius* of the Venetian Commonweale, saying it to be
also mixt of the three formes of Commonweales, as were those of Rome and Lace-
demonia: For, saith he, the royall power is in a sort in the duke of Venice, the Aristocracie H
in the Senat, and the popular estate in the Grand Councell. But *Ianot* after him
hath most curiously brought to light the true estate of the Venetian Commonweale;
wherein he sheweth by most euident testimonies, drawne out of the most auntient and
true Venetian records, That *Contarenius* in so saying was much deceiued. He sheweth
plainely, that not past three hundred yeares ago, before the time of *Sebastian Cyane*
duke of Venice, the Venetian estate was a pure monarchie. Howbeit that *Contare-*
nus writeth it to haue bene established in the state it now is eight hundred yeares: and
Pau. Manutius, saith it to haue so stood twelue hundred yeates: all which *Ianot* pro-
ueth out of the publike records, and certaine historie to be vnture. But howfoeuer that
be, plaine it is, at this day to be a pure Aristocracie: For by the view of the citie and the I
citizens, which was taken about thirtie yeares ago, were reckoned nine and fiftie thou-
sand three hundred fortie nine citizens, beside children vnder seuen yeares old, but of
Gentlemen, in whome resteth the soueraigne power of that state, betwixt foure and
fue thousand yong and old: yet had the church men and gentlemen vnder fve and
twentie yeares old, nothing to do with the state, more than to looke on, neither had
they acceffe into the Grand Councell, but by way of request: the young gentlemen
beeing so vpon request receiued at the age of thirtie yeares, according as discretion
was to be seene more in some one, than in some others: and yet hath it not bene found
this hundred yeare, that the Grand Councell assembled, to decide the great affaires of
that state, hath exceeded the number of fiftene hundred, as is to be seene in the histo- K
ries of *Sabellicus*, and of cardinall *Bembus*, the rest being absent. It is therefore the least
part of the Venetians that haue the soueraigntie, and they also of certaine noble fami-
lies, for all the gentlemen borne in Venice, are not receiued into the Grand Councell;
but there are of one and the same stocke, of the same race, of the same name, whereof
some are citizens, and come not into the counsell, and the others come. I do not here
set downe the reason why, which euery man may see in *Sabellicus*. This great counsel
as *Contarenius* saith, hath soueraigne power to make and repeale lawes, to place or dis-
place all officers, to receiue the last appeales, to determine of peace and warre, and to
giue

A viewe taken
of the Citizens
and gentlemen
of Venice.

The soueraign-
tie of the Vene-
tian estate to be
in the grand
counsel.

A giue pardon vnto the condemned. Wherein *Contarenius* condemneth himselfe: for seeing it is (as he saith) it cannot be denied, but that the state of this Commonweale is Aristocratique. For were it that the Great Councell had no other power than to make lawes and magistrats, it were enough to proue it to be an Aristocratique state, as we haue before said: for if those officers haue any power, they hold it of the Seignurie: which sufficeth to show, that neither the Decemviri, neither the Senat, neither the Sages, nor yet the duke with his sixe counsellors, haue any power but by sufferance, and so farre as it shall please the Great Councell. As for the duke himselfe he alone of all other magistrats hath no command at all, as not hauing power to condemne any man before him, neither to stay or examine any man; which is the first marke of command,

B giuen euen vnto the least magistrats, neither may he decide any cause whether it be in matters of state, or administration of iustice; either in the assembly of the sixe counsellors, or of the Decemviri, or of the Sages, or of the Senat, or of the fortie judges in ciuill or criminall causes, or of the Grand Councell. For albeit that he may enter into all their corporations and colleges, yet so it is, that he hath but his voice, as any one of them; but that he vseth to giue it to the last: neither dare he to open any letter directed vnto the Seignurie, or admit or discharge any ambassadours, but in the presence of his sixe counsellors, or of the Decemviri, or to go out of the citie without leaue. Yea *Falerius* the duke, for that he had without the consent of the councell married a straunger, was by the Decemviri hanged. And beside him *Sabellicus* reckoneth vp twelue dukes moe, either by the tumultuous people slaine, or otherwise put to death for abusing their authoritie. But he weareth a most pretious cap, a robe of gold, he is followed, honoured, and respected as a prince: and the coyne carrieth his name, albeit that the stampe of the Seignurie be vpon it, which are all tokens of a prince: all which royall magnificence we graunt him to haue, but yet all without power or commaund. Now if it were so that we should not according vnto truth, but after shewes and appearances iudge of the estate of Commonweales, there should be found none simple and pure, but all mixt and confused in such sort as they say. Yea the empire of Germanie should be much more mixt, than the Venetian state. For the emperour hath other markes and more royall than hath the duke of Venice: then the seuen princes electors, with the other princes, haue the show of an Aristocracie, or of an Oligarchie: and the ambassadours of the imperiall townes resemble a Democracie. And yet for all that most certaine it is, that the imperiall state of Germanie is a pure Aristocracie, composed of three or foure hundred persons at most, ouer whome one prince beareth rule, to put in execution the decrees of the councell, or els is to be forced to giue vp his office, as wee shall in due place declare. In like manner they say also the states of the Swissers to be mixed of the three diuers formes of a Commonweale: Amongst whome the Burgamaister representeth the king, the Senat an Aristocracie, and the assemblies generall and particular, the state popular: and yet for all that men know right well, that all their states and Commonweales are either popular, as are they which inhabit the mountaines, or els Aristocratike, as are almost all the rest.

E

The small authoritie and power the Duke of Venice hath.

The state of the Germanie empire and of the Swissers, Aristocratique and not mixt.

And this opinion of the mixed state hath so possessed the mindes of men, that many haue both thought and writ this monarchie of Fraunce (than which none can be imagined more royall) to be mixt and composed of the three kinds of Commonweals, and that the parliament of Paris hath the forme of an Aristocracie, the three estates of a Democracie, and the king to represent the state of a monarchie: which is an opinion not onely absurd, but also capitall. For it is high treason to make the subiect equall to the king in authoritie and power, or to ioyne them as companions in the soueraigntie with him. And what popular power appeareth, when the three states are assembled?

The estate of France a pure Monarchie and not mixed.

The power of a
soveraign prince
in nothing dimi-
nished by his
parliament, but
rather much the
more thereby ma-
nifested.

The forme the
courtes of parli-
ament in Fraunce
hold in writing
to the king.

assembled? or the parliament called? or wherein is the soueraigne maiestie of a prince so much manifested, as when every man in particular, and all men in generall, aswell the noble as the meniall, with bended knee, and bare head, adore their king? offer vnto him their requests, which he at his pleasure admitteth or reiecteth. What counterpoise of a popular power against the maiestie of a monarch can there be in the assembly of the three estates? yea of the whole people, if it could be gathered into one place, which humbleth it selfe, requesteth and reuerenceth their king. So farre is it from that such an assembly in any thing diminisheth the power of a soueraigne prince, as that thereby his maiestie is the more encreased and augmented. For it cannot bee exalted into a more high degree of honour, of power, and of glorie, than to see an infinit number of great lords and priuces, and people innumerable, of men of all sorts and qualitie, to cast themselues downe at his feet, and to doe homage vnto his maiestie; seeing that the honour, glorie, and power of princes, consisteth not but in the obeysance, homage, and seruice of their subiects. If then no forme or fashion of a popular power can bee imagined in the assembly of the three estates, which they make in this realme, no more or haply lesse than in England and Spaine: much lesse shall there be an Aristocracie in the Court of Peeres, (who are so called, for that they bee equall one with another among themselues, but not with the prince, as some haue too rustically deemed) or in the assembly of all the officers of the realme, considering that the presence of the king doth make all power and authoritie of all corporations and colleges, and of all officers aswell in generall as in particular to cease: in such sort, as that no magistrat hath power to commaund any thing in his presence, as we will in due place declare. And albeit that the king sitting in his seat of iustice, the chauncelour first addresseth himselfe vnto him, to know his pleasure, by commaundement from whome he goeth, gathering the aduise and opinions of the princes of the blood, and other great lords, the peeres and magistrats, which he reporteth againe vnto him: yet is not that so done, to the intent to number the voyces, as in the consistorie among the judges, but that the king vnderstanding their opinions, may as seemeth vnto him good, receiue or reiect the same. And albeit that most times he follow the opinion of the greater part, yet to make it knowne, that it is not the judges or magistrats decree, but the decree of the prince onely, and that the rest of the magistrats haue therein no power, the chauncelour pronounceth not this or that to be thought good vnto the judges of the court, but with a lowd voice vseth these words, *The king sayeth vnto you*. Wee see also that the court of parliament, writing vnto the king, keepeth euen yet the auncient stile, which is this in the superscription of their letters, *To our Soueraigne Lord the King*. The beginning of which letters is on this sort, *Our Soueraigne Lord in most humble wise, and so much as in vs is we recommend vs to your good grace*, And the subscription placed as low as may be: *Your most humble and obedient subiects and seruants, the men holding your court of Parliament*. Which is not the manner of the lords of an Aristocracies speech: neither of such as are companions in Soueraignie with the king, but of true and humble subiects. And for that I haue touched this point before, I will now lightly passe it ouer. The state of Fraunce therefore is a pure Monarchie, not mingled with the popular power, and so lesse with the Aristocratique Seigneurie: which mixture of states is altogether impossible, and incomparable. And Aristotle most subtilly examining this opinion, for the mixture of states, truly calleth the state composed of an Aristocracie and a Democratic *πολιτικη*, that is to say a Commonweale: but sheweth not how that may be done, neither giueth thereof example, as he vsually doth in others: but to the contrarie confesseth, that he knew none such in his time; or yet had found any such before, albeit that he is reported to haue gathered an hundred Commonweales into one

A one booke, which booke is now lost. And forasmuch as *Aristotle* seldome or neuer reporteth the true opinions of *Plato*, but to the contrarie alwaies disguiseth and obscureth them as the antient Academiques haue right well noted; and namely whete hee reiecteth his Commonwealth; vpon whose sayings many resting themselves haue oftentimes deceiued both themselves and others. We not addicted to either, will in few words set downe the true opinion of *Plato* concerning his Commonwealth, deserting well to be knowne for the better vnderstanding of the question we haue in hand, which some which neuer read the same, call a diuine opinion: some others in the meane time treading the same vnder foot, and rayling thereat as fast.

B *Plato* faigned vnto himselfe onely two Commonwealths, whereof the first hee attributed to *Socrates*, who neuer thought (as saith *Xenophon*) of that which *Plato* maketh him to say: and in his Commonwealth he taketh away these words, *Mine*, and *Thine*, as the source and fountaine of all euil; and would haue all goods, yea wiues and children to be common. But seeing euerie man to find fault therewith, he quietly left it, as if he had so writ more for argument sake, than for that he so thought; or to haue the same put in effect. The second is his owne, wherein hee taketh away the communitie of goods, of women and children: as for the rest those Commonwealths are both in all things alike. For both in the one and the other, he would not haue aboute five thousand and fortie citisens, a number by him chosen to haue 59 entire parts: in which Commonwealths he also maketh three estates or degrees of men: viz. the Guardes, **C** Souldiours, and Labourers: and after that diuideth the citisens into three degrees, according to the vnequall rate of their substance. As for the soueraignie hee giueth it vnto the whole multitude of the people; as to make and abrogat lawes, cause sufficient enough to iudge that he ment to make it a popular estate, if there were nothing else. But he passeth on farther, and giueth vnto the whole assembly of the people power to place and displace all the officers: and not content with that, willeth also that the people should haue all the power to iudge in criminall causes; for that they are (as he saith) all therein interested. In briebe he giueth vnto the people power of life and death, to condemne, and to graunt pardon; which are all euident arguments of a popular state. For he appointeth no soueraigne magistrat, which might represent the state royall, and **D** but a little of the forme Aristocratique: for he willeth, that the Senat, or the counsell for the affaires of the state, which he calleth Guards or keepers should consist of foure hundred citisens, to be chosen of the people. Whereby it is most euidently to bee vnderstood, that *Plato* his Commonwealth is the most popular that euer was, yea then that of his owne countrey of Athens, which *Xenophon* thought to haue bene the most popular state in the world. I omit the 726 lawes set downe by *Plato*, in the twelue books for the gouernment of his Commonwealth: sufficeth it mee to haue showed *Plato* his imagined Commonwealth not to haue bene made of a mixture of an Aristocracie, and Democracie, as *Aristotle* said, whose errour *Cicero*, *Contarenius*, and others, one after another following, led the rest that followed them into errour also.

E Let vs therefore conclude, neuer any Commonwealth to haue bene made of an Aristocracie and popular estate; and so much lesse of the three states of Commonwealths, and that there are not indeed but three estates of Commonwealths, as *Herodotus* first most truely said amongst the Greekes, whome *Tacitus* amongst the Latins imitating, saith, *Cunctas nationes & vrbes, populus, aut primores, aut singuli regunt*, The people, the nobilitie, or one alone, do rule all nations and cities.

But some man will say, May there not be a Commonwealth, wherein the people hath the power to create the magistrats, to dispose of the common reuenue, and power of life and death; which are three markes of soueraignie, & the nobilitie to haue power

Plato his commonweale a pure popular estate and not mixt.

to make lawes, to dispose of peace and warre, and of the impositions and taxes; which are also markes of soueraigntie: and besides all these to haue one royall magistrat aboute all, vnto whome all the people in generall, and euerie one in particular should yeeld their faith and liege loyaltie, and from whose iudgement none might appeale or present any ciuill request. For so the rights and markes of soueraigntie should seeme to be diuided in three parts: the people chalenging one part thereof, the nobilitie another, and the king the third: whereby in that state a mixture might seeme to bee made of the royall Aristocratique and popular state together. Whereunto I aunswere, that such a state was neuer found, neither that such a state can bee made, or yet well imagined, considering that the markes of soueraigntie are indiuisible. For the nobilitie which should haue the power to make the lawes for all: (which is as much as to say to commaund and forbid what them pleased, without power to appeale from them, or for a man to oppose himselfe against their commaunds) would by their lawes at their pleasure forbid others to make peace or warre, or to leuie taxes, or to yeeld fealtie and homage without their leaue: and he againe to whome fealtie and homage is due, would bind the nobilitie and people not to yeeld their obedience vnto any other, but vnto himselfe. And admit that euerie one would seeke to defend his owne right, and not suffer any thing to be taken from him that he thought belonged to himselfe: yet that doth most differ from the nature of a Monarchie, that he which hath the soueraigntie, should himselfe bee enforced to obey any other but especially his subiect. Whereby it commeth to passe, that where the rights of soueraigntie are diuided betwixt the prince and his subiects: in that confusion of the state, there is still endlesse sturres and quarrels, for the superioritie, vntill that some one, some few, or all together haue got the soueraigntie. Whereof as there be many examples of old, so is there none fitter in our time, than the example of the kings of Denmarke, whome the nobilitie euer since *Christiern* the great grandfather of *Frederike* which now raigneth, hath almost made subiect vnto the lawes. *Christiern* they thrust out of his kingdome, and set vp his cosen in his place, with condition that he should neither make peace nor warre, without the leaue of the senat: nor that he should haue any power to condemne any gentleman to death; with many other like articles, which I will in their place set downe: which the kings since that time haue sworne to keepe: which that they should not go against, but that they might be the more firmly kept, the nobilitie will in no case that the king should of himselfe make any peace; and yet haue themselues made a league with the king of Polonia, and them of Lubec, against the king, for the defence of their libertie. So indeed are the rights of Soueraigntie diuided betwixt the king and the nobilitie, but so as that they both liuing in perpetuall feare and distrust; do seeke for the alliance and fellowship of their neighbour princes and people, so to receiue the lesse harme one of them from another. With like surges and tempests is the kingdome of Sweden also tossed, the king whereof liued in such distrust with his nobilitie, as that king *Henry* was glad to take a German for his Chauncelour, and one *Varenn*es a Norman for his high Constable: and yet at length was by his nobilitie thrust out of his royall seat, and by them cast in prison, wherein hee liued seuteene yeare. Wherefore such states as wherein the rights of soueraigntie are diuided, are not rightly to bee called Commonweales, but rather the corruption of Commonweales, as *Herodotus* hath most briefly, but most truely written. For as bodies by nature well framed, if they begin to change, with wonderfull stinke and contagion annoy all that come neere them, vntill they bee quite altered, and become new things; as when egges are set vpon, which before they were set, and after they be hatched also haue a good smell and taste, though in the verie alteration of them not so: so also Commonweales which chaunge their state, the soueraigne

That it is impossible to compose one commonweale of the mixture of the three formes of commonweals.

To diuide the rights of soueraigntie dangerous to all commonweals.

A ueraigne right and power of them being diuided; find no rest from ciuill warres and broiles, vntill they againe recouer some one of the three formes, and that the soueraignie be wholie in one of the states or other.

Yet might one say, that in the estate of the Romans the lesse part of the people chosen out of the richer sort made the lawes, and greatest officers; namely the Consuls, the Prætors, the Censors, had both soueraigne power of life and death: and disposed of warre, and that the greater sort of the people made the lesser officers and magistrats, to wit, the Tribuns of the people; the foure and twentie militarie Tribunes; the two Ædiles or Sherifes; the Treasurers; the Scout, and mynt masters, and gaue also all benefices vacant, and more then that the greater part of the people iudged of the great criminall processe before Sylla, if it tended not to the naturall or ciuill death of any. And by this meane it seemeth that that Commonweal was composed of an Aristocracie, and of a popular estate: Whereunto I answered, that it had well some appearance, but yet neuerthelesse was in effect a true popular estate: for albeit that the great estate of the people was diuided into sixe degrees, or companies, according to euery ones abilitie, and that the knights, and the greatest part of the Senators, and of the nobilitie, and richer sort of the people were of the first companie: who agreeing among them selues, the lawes by them made were published, and the great magistrats by them chosen receiued to take their oath: yet neuerthelesse true it is that the five companies that remayned, had tenne times as many citizens in them: and in case that all the Centuries of the first companie agreed not vpon the matter, they then came to the second companie, and so by order even to the sixt and last, which in deede seldom times or neuer happen. Matters being still so agreed vpon, as that they came not alwayes vnto the second companie, but seldom to the third, and most seldom to the fourth, scarcely at all vnto the fift, and neuer vnto the sixt: wherein was all the rabble of the poore and base people, in number farre exceeding all the rest: yet sufficeth it for our purpose, that all the people had their part, to shew it to haue bene a popular state: albeit that the most noble and richer sort were first called. And yet for all that the meniall people, (that is to say, the greater sort of the people) without the nobilitie, seeing them selues sometime deceiued of their voices (after that the kings were driuen out) and little or no regard to be had of them, began tumultuously to arise: whereof grew the three departures of the people into the mount Auentine, whither the people in armes had retired them selues for the defence of their libertie and power against the nobilitie: which could not bee appeased vntill it was lawfull for them to chuse vnto them selues their owne sacred magistrats, and that in their owne assemblies, from which the nobilitie was excluded: and then the Commonweal seemed in a maner to haue bene mixt of the nobilitie and the people. But if a man will consider the shortnes of the time, and the turmoyles where with the Commonweal was in the meane time afflicted, he shall confesse that it could scarce haue stood in that state, although most miserable twentie or thirtie yeares: neither yet so long, had it not on euery side bene beset with enemies. For shortly after the people tooke vnto them selues the power to make lawes, wherein the maiestie of the Commonweal is contained; and so by little and little wrested from the nobilitie (much against their will & long struggling therefore) the other soueraigne rights also: in somuch that the nobilitie scarce made twelue lawes in the space of foure or five hundred; And yet at the same time that the people chose the greater magistrats by their greatest assemblies, the vulgar people was there present, and enrolled in the sixt companie, which although it most seldom gaue suffrage or voice, yet might it so do, if the other companies should haue disagreed among them selues: a reason sufficient to shoue the state even at that time also to haue

beene a popular state.

Yet for all that a man may say that it followeth not hereof that there are not but three sorts of Commonweals, although they cannot be amongst them selues mixed : for it may be that of threescore thousand citizens in a citie, fortie thousand may haue the soueraignie, and twentie thousand be excluded : where, for that the greater part beareth the sway, it shal be a popular state : and contrarie wise if but an hundred of that multitude shall haue the soueraignie, it shall be an Aristocracie; for that the lesse part of the citizens gathered together hath the soueraigne power : what then, if of the same number of citizens fise and twentie thousand shall hold the chiefe power? Truly, it may be doubted whether such a state be an Aristocracie, although the lesse part of the citizens enioy the soueraignie, the rest being reiected : for why, it differeth much whether an hundred citizens, or fise and twentie thousand beare rule, and much more if of an hundred thousand citizens fise and fortie thousand haue the soueraignie : or of so great a multitude thirtie onely should beare the sway, the rest excluded, as among the Lacedemonians : yet I alwaies deeme it to be an Aristocracie, if the lesser part of the citizens beare rule ouer the rest : for otherwise if the diuersitie of the number should make the diuersitie of Commonweals, there should be of them a million, yea an infinite of diuers kinds of Commonweals : for the number of them which should haue part in the state encreasing or diminishing, should make an infinite diuersitie, whereof no knowledge is to be had; suffiseth it the soueraigne power to be with the greater or lesser part of the people, for the making of an Aristocracie or Democracie. The rest of the difficulties which might be moued concerning the nature of euery Commonweal shall hereafter be in due place declared.

Yet one thing remayneth in the question we haue in hand to be discussed, which is that the Roman Commonweal vnder the emperour *Augustus*, and the other emperours after him, vnto the time of *Flavius Vespasianus*, was called a principalitie, of which sort of Commonweal, neither *Herodotus*, neither any of the Greek or Latine writers, except *Tranquillus*, seemeth to make any mention : for he writeth that the emperour *Caligula*, seeing diuers kings at his table to enter into the teatmes of honour, and the antiquitie of their houses among themselues; with a loude voice brought forth that verse of *Homer* which *Agamemnon* vseth against *Achilles*, who would needs make himselfe equall and companion with him.

Οὐκ ἐγχαθον πολυκοιρανίη, εἰς κοιρανὸς ἔσω, εἰς βασιλεύς.

*An euill thing it is to be ruled by many:
one prince, and one king, where there is any.*

And much it missed not but that hee had euen then taken vpon him the imperiall crowne, and chaunged the forme of the Roman principalitie into a kingdome; and thus much he. where by it is to be vnderstood the Roman state vnder *Augustus* after the battell at Actium, to haue beene neither a Popular state, an Aristocracie, nor a Monarchie. Now a principalitie is nothing else then an Aristocracie, or a Democracie, in which one chiefe commaunded euery man in particular, and it is but the first in generall : for this word (*Prince*) to speake properly signifieth no other thing but him that is first. So the Iewes complained *Aristobulus* the first of the house of the Amoneans, to haue chaunged the principalitie which was Aristocratique, into two kingdomes, at such time as he tooke one crowne to himselfe, and sent an other to his brother. The like wee find, that the auncient cities of Tuscanie made alliance with *Tarquinius Priscus* king of the Romans; vpon conditiou that hee should not haue power

In what state fou-
uer the lesser
number beareth
rule ouer the grea-
ter it is to be ac-
counted an Arist-
ocratie.
What a principa-
litie is.

What a Principi-
palitie is.

F

G

H

I

K

A power ouer them of life and death : neither to put garrisons into their townes, nor to impose vpon them any taxes or tallages ; or to chaunge any of their customes or laws, *Sed ut ciuitatum principatus penes regem Romanum esset* , but that the principallitie of their cities onely should be with the Roman king: for so saith *Florus* . Now all those cities were of a popular state. Wherefore *Tarquinius* was but the first and chiefe in the assemblies of those cities, who might gouerne the multitude no otherwise than doth the emperour in the German empire, or the duke in Venice, or Genua, who may most rightly be called princes, as in the same sence in antient time the chief magistrat among the Athenians, was called ἀρχων, or prince : yet was that Commonweale of all other most popular.

B But if there be two chiefe magistrats of like power, as in Rome ; or three, as in many cities of the Swissers ; or foure, as amongst them of Geneva ; it cannot there be called a principallitie, for that none is there chiefe or principall . But in the Roman Commonweale, *Augustus* by a crafty deuise hauing made himselfe but great Generall of the armie (by the name of Imperator) and Tribune of the people for defence of their profit, (from whence for all that he had taken their libertie) and as it seemed almost enforced by the Senat, had taken vpon him the charge of the Commonweale for ten yeares, made that state in show and false semblant but a principallitie, when as before hee had placed in all the prouinces fortie legions, and taken three for the safetie of his person, and put sure garrisons into all the castles and strong fortresses of the empire : so inua-

C ding the royal power without a Scepter, without a Diadem, or a Crowne ; whose successors (excepting some few) some more, some lesse, exercised most cruell tyranny. For *Tiberius* in the beginning of his raigne, rose vpon the Consuls, and meeting them gaue them way, (as sayth *Tranquillus*) but afterwards oppressed the Commonweale with most filthy seruitude and slauerie. But here is to be considered what was in deed done, and was not made show of : for he that beareth greatest sway in the Commonweale, him men thinke to haue the soueraigntie : but if question be made of the right, then are we to looke not what is indeed done, but what ought to be done. Wherefore it appeareth a principallitie to be nothing els, but an Aristocratie, or a Democratic, hauing some one for chiefe or principall about the rest, the soueraigntie yet still remaining

D with the nobilitie or the people.

In matter of state he that is master of the forces, is master of the men, of the lawes, and of all the commonweale.

CHAP. II.

¶ Of a Lordly Monarchie, or of the sole gouernment of one.



E haue before said, that a Monarchie is a kind of Commonweale, wherein the absolute soueraigntie lyeth in the power of one onely prince : which definition we are now to explaine. When we say of one, so the word Monarchie of it selfe importeth : For if we shall in the gouernment ioyne two or more, no one of them shall haue the soueraigntie : for that a soueraigne is hee which commaundeth all others, and can himselfe by none be commanded . If then there be two princes equall in power, one of them hath not the power to commaund the other, neither can hee suffer the commaund of the other his companion, if it stand not with his owne pleasure, otherwise they should not be equals . Wee may then conclude, that of two princes equall in power in the same Commonweale, and both of them in all things lords of the same people, and of the same countrey indiuisibly, neither the one nor the other hath therein the soueraigntie : but it may well be said them both together to haue the soueraignty of the state comprised vnder the name of an *Oligarchie*, but is more properly

A true soueraign commaundeth all others his subiects, but is himselfe by none commaunded.

A very hard
matter for two
princes in one
and the same
commonweale
long to hold
the soueraigntie
together.

called a *Duarchie*, a kind of Aristocracie, which may be of continuance and durable, so long as the two princes shall well agree together. As *Romulus* and *Tatius*, one of them king of the Romans, and the other of the Sabines, after certaine conflicts, making peace entred into societie together, vpon condition, that both their people vnited together, should dwell within the same walles, and by the name of *Quirites* by common soueraigntie be gouerned by both kings. But *Romulus*, who before by the slaughter of his brother *Remus* had rid himselfe of his fellow in the kingdome, could not long endure the straunger to raigne with him, but caused him to be slaine, or at leastwise held the murtherer excused, being for the fact apprehended. Long time after the Roman empire was conuerted from a Monarchy into a Binarchie: at such time as *Antoninus Pius* left *M. Aurelius*, and *Ælius Verus*, semperours, and both fellowes in the same empire: of which two *Ælius* in short time after died, and not without the suspicion of poison. For it is, and alwayes hath bene a thing most hard to maintaine the equall soueraigntie of both together. And that which *Lucan* writeth,

*Nulla fides regni socijs, omnisque potestas,
Impatiens consortis erit.*

No sincere loue is to be found in partners of the soueraigne state,
And fellowship in power great, is alwaies mixt with mortall hate.

Is especially to be vnderstood of a Diuimurat, or soueraigne gouernment of two together. For that the gouernment of three or moe together in the soueraigntie, may bee firme, but of two not so; seeing that by nature one thing is but contrarie to one, and not to many: the third as a meane still ioyning the extreames together. And therefore the Roman emperours, when as they at the same time rooke vpon them the same soueraigntie of gouernment, least by the mutuall concurse of their power, they should violat their faith and friendship, diuided the empire, the one being emperor of the East, and the other of the West; the one residing at Constantinople, and the other at Rome, in manner as if they had bene two Monarches, although sometimes the same edicts and lawes were in both empires by the common consent of both princes published. Yet so soone as they began to quarrell, the two empires were indeed diuided in power lawes and estate. So might a man say of the Lacedemonian Commonweale well gouerned by one king. But when *Aristodemus* left the kingdome to be gouerned wholly, and diuided by his two sonnes *Proclus* and *Euristhenes* both at once, they quickly fell at oddes, and had their state taken from them, by *Lycurgus* (beeing himselfe a prince descended of the blood of *Hercules*) and the soueraigntie by him giuen vnto the people. The like happened vnto *Amphareus* and *Leucippus*, kings of the Mefsians. But the Argiues least they should fall into the same troubles, to auoid the plurality of kings, at such time as *Atreus* and *Thyestes* at once seised vpon their fathers kingdome, the people (I say) made choyce of the wiser, or as *Lucian* saith of the more learned. And the princes of the blood of *Meronee* and *Charlemaigne*, diuided the kingdome amongst them. So the children of *Clodoneus*, of their fathers one kingdom made foure of equall power. And the three children of *Lewes* the Debonaire diuided so many kingdomes amongst them. Neither do we read many at once long to haue holden a kingdome together vndiuided: for the indiuisible nature of soueraigntie, and the fellowship of gouernment, is alwayes full of dangers, where no one hath the soueraigntie, except when a straunge prince marrieth a queene, among such as are acquainted with womens gouernment: where commonly the pictures of the man and his wife, their names and armes are ioined together; as if the soueraigntie belonged vnto them both: as it chanced

A ced when king *Ferdinand* married *Isabel* queene of Castile, *Anthonie* of Bourbon, *Joane* queene of Nauarre, and *Philip* king of Spaine *Marie* the daughter of *Henrie* king of England. Howbeit the English men would not suffer him to haue any part with her in the soueraigntie, or of the fruites or profits thereto belonging, but that the same should remaine wholly vnto her selfe; albeit that they were contented that they should both (for fashion sake) beare the name, and both the one and the other signe charters, and commissions, but yet so, as that the signe of the queene might of it selfe bee sufficient, but that without hers the signe of king *Philip* should be to no purpose. Which was also agreed vpon with *Ferdinand* king of Arragon, hauing married *Isabel* of Castile, where all the commaunds were signed, *Yo el Roy*, and *Yo la Reyna*; and by the secre-
B tary of the state, with sixe doctores: but as for the soueraigntie it was wholly in the queene. Than which no more effectuell reason can be given against the Manichies, who erroneously appointed two gods of equall power; one good, & the other euil: for if it were so they being contrarie the one to the other, should either ruinate the one the other, or els being at continuall variance, should without ceasing trouble the sweet harmonie and concord that we see in this great world. And how could the world endure those two lords of equall power, and contrarie in will the one to the other, seeing that the least citie or Commonweale cannot suffer two, albeit that they were brethren, if they should fall neuer so little at variance: much more easily could it endure three such princes than two; for that the third might vnite the two, or els ioyning himselfe with
C the one, constrain them both to lue in peace. As it happened so long as *Pompee*, *Cæsar*, and *Crassus* liued, whome the people called the monster with three heads: for so long they peaceably gouerned the Ronian empire, which then depended of their power. But so soone as *Crassus* was slaine in Caldea, straight way the other two fell in funder, and so egerly made warre the one of them vpon the other, as that to reconcile them was impossible, vntill that one of them had quite ouerthrowne the other, and made himselfe maister of all. The like happened after the death of *Cæsar*, in the Triumvirat of *Augustus*, *M. Antoninus*, and *Lepidus*, who hauing of one popular Commonweale, made three Monarchies; and *Lepidus* vnfit for government, had submitted his authoritie vnto *Augustus*, although *Antoninus* had married *Augustus* his sister, and that they two had equally diuided the empire betwixt them, and liued in countries
D farre distant one from another; yet rested they not long, but that the one of them was shaken out of all, by the authoritie and power of the other. Whereafter ensued the sure state of the empire, established vnder one mans government. Wherefore let vs hold it as resolued vpon, that it cannot be called a Monarchie, where the soueraigntie is in two mens power; neither that any government can consist in that state, if they shall fall at variance betwixt themselves.

I the king, and I the queene.

A commonweale better gouerned by three great soueraigns than by two.

Now Monarchie is diuided into three formes: for he that hath the soueraigntie, is either lord of all: or else a king, or a tyrant, which maketh no diuersitie of Commonweals, but proceedeth of the diuersitie of the gouernour in the Monarchie: For there is great difference betwixt the state, and the government of the state: a rule in pollicie (to my knowledge) not before touched by any man: for the state may be in a Monarchie, and yet the government neuertheless popular; if the king do distribute all places of commaund, magistracie, offices, and preferments indifferently vnto all men, without regard of their nobilitie, wealth, or vertue. But if the prince shall giue all commaund, honours, and offices, vnto the nobilitie onely, or to the rich, or to the valiant, or to the vertuous onely, it shall be a royall Monarchie, and that simple and pure, but yet tempered in maner of an Aristocracie. So also an Aristocratique seigneurie, may gouerne their estate popularly; diuiding the honours and preferments therein vnto all

Three sortes of monarchies. Great difference betwixt the state, and the government of the state of a commonweale.

the subiects indifferently : or else Aristocratically , bestowing them vpon the nobilitie or richer sort onely ; which varietie of gouernment hath deceiued them which haue made a mixture of Commonweals, and so made more sorts thereof then three , without hauing regard that the state of a Commonweal is different from the administration and gouernment of the same : But this point we will farther touch in place conuenient.

The three sorts
of Monarchies
aptly described.

Wherefore a lawfull or royall Monarchie is that where the subiects obey the lawes of a Monarque, and the Monarque the lawes of nature, the subiects inioying their naturall libertie, and proprietie of their goods . The lordly Monarchie is that where the prince is become lord of the goods and persons of his subiects , by law of armes and lawfull warre ; gouerning them as the master of a familie doth his slaues . The tyrannicall Monarchie , is where the prince contemning the lawes of nature and nations, imperiously abuseth the persons of his free borne subiects, and their goods as his owne. The same difference is also found in the Aristocratique and popular estate : for both the one and the other may be lawfull, lordly , and tirannicall, in such sort as I haue said: for the greatest tyrannie of all other is of *Tully* called the rage of the furious and turbulent people.

The lordly Monarchie the first
that was amongst men.

Now as concerning the lordly Monarchie , it is conuenient for vs first to intreat thereof, as of that which was first amongst men: for they are deceiued which following the opinion of *Aristotle*, suppose that golden kind of men (more famous for the poets fables , then for that there were any such in deed) to haue made first choice of their heroicall kings : seeing we find , and all men are perswaded that the first Monarchie was established in *Asiria*, vnder the power of *Nemrod*, whom the holie scripture calleth the great hunter ; which is a common phrase of speech amongst the *Hebrewes*, by which word they signifie a theefe , or robber . For the auntient writers , viz. *Plato*, *Aristotle*, and *Xenophon*, haue put robberie among the kinds of hunting , as wee haue elsewhere noted. For before the time of *Nemrod* no man is found to haue had power and rule one ouer an other, all men liuing in like libertie ; he being the first that tooke vpon him the soueraignty , and that caused free borne men to serue : whose name seemeth to haue beene giuen him according vnto his qualitie, for asmuch as *Nemrod* signifieth a terrible lord . Soone after the world was seene full of slaues , *Sem* one of the sonnes of *Noe* yet liuing . And in the whole course of the Bible, the scripture speaking of the subiects of the kings of *Asiria* and *Ægypt*, calleth them alwaies slaues : and not the holie scripture onely , but the Greekes also , who alwayes in their writings tearme them selues free , and the Barbarians slaues ; meaning by the Barbarians the people of *Asia* and *Ægypt* . And therefore the kings of *Persia* denouncing warre , demanded the earth and the waters, (as *Plutarche* writeth) to shoue that they were absolute Lords of all that was in the land and sea contained . And that is it for which *Xenophon* in his *Cyropædia* writeth , that it is a thing good and commendable among the *Medes*, that the prince should be lord and owner of all things : And thereof came the adoration which not onely the subiects , but straungers also , yea and the embassadors of forren nations vsed towards the kings of *Persia* , to shoue that all was in his power. For when *Themistocles* , whose name euen then and long before was most famous, would after the manner of the Greekes haue spoken vnto the Persian king, *Atabannus* captaine of the kings gard, kept him from comming vnto him, neither would suffer him to preferre any request vnto him, vntill such time as he had after the Persian manner adored him : but afterwards when he was gon out of the kings presence, hee courteously spake vnto him , and in these words excused that he had done ; It is seemely O *Themistocles* , to follow the fashion of the countrey wherein a man is : you Greci-

Nemrod the first
Monarchie.

Ans make great reckning of your libertie and equalitie of commaund ; but we esteeme it for the best thing in the world to reverence,serue,and honour our king,as the image of the living God . Wherevnto agreeth that which *Linie* writeth , *Barbaris pro legibus semper dominorum imperia fuerunt* . The commaund of their lords haue beene alwaies vnto the Barbarians for lawes . Neither ought this lordly monarchie to be accounted a tyrannie : for it is not inconvenient,that a soueraigne prince hauing in good and lawfull warre vanquished his enemies , should make himselfe lord of their goods and persons by the law of armes, governing them now his subiects , as doth the good housholder his seruants or slaues : as wee see it a thing receiued by the manner and custome of almost all nations . But the prince which shall by vniust warre , or other vnlawfull meanes make off freemen his slaues , and possesse himselfe of their goods, is not a lordlike Monarche, but a verie tyrant : from which *Adrian* the emperour was so farre , as that he would not that a slaue a player, should enioy his libertie, which his master at the request of the people of Rome had giuen him in the Theater , but left it to the discretion of his master, to be as he thought good disposed of : As had *Tiberius* before , and after that *Marcus Aurelius Adrian* his sonne in like case forbid the same : whatsoeuer consent the master had giuen at the clamour of the people;reputing it rather forced than done of good will : to the end that the full disposition should be in euery mans power, of that which vnto him belonged. And now although at this present there be few princes which haue in their absolute power the bodies and goods of their subiects , although we see many tyrants ; yet are there many in Asia and Africa : but in Europe I know none which take so much vpon them , beside the Princes of the Turkes, and of the Moscouits . True it is that the Moscouits call themselues Chlopes, that is to say , seruants, which wee corruptly call slaues . But the Emperour of the Turkes styleth himselfe *Sultan* , that is to say Lord : not so much for the largenes of his possession, (seeing that the king of Spaine hath vnder his dominion and rule, people for their crueltie barbarous , for their multitude innumerable , in places infinite : which his kingdome is bounded with the same countries, wherewith the course of the sunne is bounded, being ten times greater then the Turkes empire) but is therefore called Lord of the Turkes, for that he is lord of their persons and goods ; whom for all that he gouerneth much more courteously and freely , then doth a good housholder his seruants : for those whom wee call the princes slaues , or seruants, the Turkes call them Zamoglans , that is to say tribute children ; whom the prince vseth no otherwise to instruct, then if they were his children : and to bestow on them noble preferments, which are of others desirously sought after . As for his Timariot horsmen, they hold all their possessions in fealtie of the Prince , as it were during pleasure , renewing their letters patents from ten yeares to ten yeares : neither when they dye can they leaue their children heires of their possessions , but of their moucables onely ; except by the gift of the prince they keepe the possession of their fathers lands , as they doe of his goods . Other princes there are none in Europe which call themselues lords of the bodies and goods of their subiects , and fewer in auncient time then at this present : for *Augustus* the emperour himselfe , although he were in effect the greatest monarch in the world, yet so it was that he so abhorred to be called Lord : neither had any that held of him in fealtie and homage.

A lordly Monarchie, not to be accounted a tyrannie and whie.

The great Turk and the Moscouite the only lordly Monarques in Europe

Now if one say that there is no Monarque in Europe which pretendeth not all the goods and lands of his subiects to belong vnto him in right of direct soueraigntie , neither any man which confesseth not to hold his goods of his soueraigne prince : yet I say that that sufficeth not that any man should therefore of right be called lord of all, or a lordly Monarchie : seeing that euery subiect hath the true proprietie of his owne things,

How the goods and landes of subiects belong vnto the soueraigne prince.

The Hunnes the first that brought the lordly soueraign-mét of Monarks into Europ.

*Plusar in Resmulo.

The great Negus of Aethiopia a lordly Monarque.

The beginning of tenants and fees, and what in auncient time they were.

things, and may thereof dispose at his pleasure: although the prince for pompe and show challenge vnto himselfe the soueraigntie thereof. And yet there are diuers lands which are called Allodial, wherein the prince hath neither proprietic, nor soueraigne right, as not holden of him. The Hunns a Tartar-like nation come from the farthest parts of Scythia, at such times as they with fire and sword destroied almost all Europe, first showed the example vnto the Lombards and Almans, Germane nations, and to the Frankes, the auncient inhabitants of Fraunce, calling themselves Lords of all, and so accustomed these nations to lord it ouer all: as that no man could hold a turfe of ground but by their leaue. True it is that the Romans hauing vanquished their enemies, most commonly solde them for slaues, or else condemned them to lose the seauenth part of their lands: which lands they straight waies gaue vnto their Colonies in pure proprietic. But princes and people instructed in ciuilitie, for feare of rebellion, or distrust of their owne power, reiected such lordlike soueraigntie as had the kings of Persia and Asia ouer their subiects: contenting themselves with the shadow of such lordly Monarchie. And albeit that the Persian kings before the time of *Artaxerxes*, had vsed to cause their great lords and magistrats to be stript starke naked before them and whipped as slaues: yet king *Artaxerxes* was the first that ordained that they should in deed be stript, but should not haue but their cloathes and garments onely beaten: and wheras their haire was wont in dispite to be pulled off, he commaunded the wooll of their cappes onely to be so pulled. True it is that *Francis Aluarez* writeth, that he hath scene in Aethiopia the great Chauncelour, and other great lords and gouernours of prouinces stript starke naked, and cast vpon the ground whipped as slaues before their prince: who held the same as a great honour vnto them; by the discourse of whose hy storie, a man may easilie gather the great Negus of Aethiopia to be a Lordly Monarque. But the people of Europe more couragious, and better souldiers then the people of Africke or Asia, could neuer endure the lordly Monarques, neither had euer vsed them before the incursions of the Hunnes into Europe, as I haue before said. And first of all *Odonacre* king of the Herules, who almost at the same time invaded Italie, that *Attila* did Germanie; hauing brought Italie vnder his subiection, tooke the third part of the territorie from the subiects (the punishment of all people by him vanquished,) but left their persons free, and themselves lords of their goods, without any tenure, or yeelding vnto him of any fealtie or homage. But after that the Almans, Lombards, Frenchmen, Saxons, Burgundians, Gothes, Ostrogothes, Englishmen, and other Northren people had tasted the maners and customes of the Hunnes, they began to make themselves Lords, not of the persons, but of all the lands of them whom they had vanquished: and yet afterward reseruing vnto themselves the most fruitfull part thereof, left the rest vnto the auncient inhabitants, to be by them inioyed, yet as holden of them in fealtie, with paying of some small tribute if they should change the possession thereof: which for this cause are called Seigneuries, or Lordships; to show that the shadow of the auncient lordly Monarchie as yet remayneth, although greatly diminished. For these fees and lordships were in auncient time nothing else but benefits and rewards giuen to souldiors for terme of their liues, and afterward by fauour continued from the father to the sonne: except dukedomes, marquisats, earledomes, and other like honours and dignities, giuen vnto dukes, marqueses, earles, and such like honorable personages, and not vnto the lands: a custome not yet chaunged in England and Scotland for regard of the dignities, where the dukes and counties being dead, their children and successours haue their lands; but not still the dignities, prerogatiues, and titles of their predecessours: for when fees or lands were giuen to souldiors for terme of their liues, they afterward obtained, that they might either by their

wills,

A wills, or else dying intestate, leaue them vnto their children; and that if there were no heires males left, they should by law descend vnto the women: excepting in Germany, where the women are excluded from the inheritance of lands in fee: which was the strongest argument which *Fredericke* countie of *Vaudemont* vsed against *Renat* of Aniou king of Sicilie at the counsell of Constance, demanding of the Emperour that he might be invested in the dukedome of Loraine, considering that it was an imperial fee, and by consequent that *Isabel* wife to *Renate* was not thereof capable: although she were the duke of Lorains daughter. Howbeit that *Renate* the king of Sicilie, might by an other reason haue defended himselfe, that is to say, that in question of fees, and seruices, we are to follow the lawes and customes of the land that oweth the seruice, and not of that wherevnto the seruice is due: now by the custome of Loraine the daughters succcede in fees. But how soeuer it be, most certein it is that the marks of Lordly Monarchies, haue continued in Germanie, and towards the North more than in the other parts of Europe. For albeit that *William* the Conquerour, hauing conquered the realme of England, by force of armes, called himselfe not onely lord of that realme, but also caused it to be proclaimed, that the soueraigntie and proprietie of al his subiects goods, mouable, and immouable vnto him belonged: yet neuertheless so it was, that he contented himselfe with the direct soueraigntie, fealtie and homage: the subiects still enjoying their libertie, and full proprietie of their goods. But the emperour *Charles* the fift, after he had subdued the great countrey of Peru, made himselfe Lordly Monarch thereof, causing all things to be holden of him, excepting the slaues, whome for that they were innumerable he caused to be set at libertie. As for the lands he left them to be enioyed by them that possessed them at his pleasure: and not to descend vnto their children by inheritance. A craftie and subtile device, whereby *Lagasca* the lawyer, the emperours lieutenant in Peru (*Gonsulo Pizarra*, and the rest of the authors of rebellion vanquished and ouerthrowne) by a perpetuall bond to keepe the inhabitants of that country, within the compasse of their duety, compelled them for euer to aske of the king of Spaine, the possession of their goods, their kinsmen beeing dead: except the parents themselues yet liuing, had before procured the same to be graunted for their children in time to come: which was not to be obtained without a great sum of money to be paid into the kings coffers: they of greater power in the meane time being thereby kept from raising of any new sturres. For like cause whereof in one chapter of *Mahomets*, it is forbidden all persons of what degree or qualitie soeuer to call themselues in any sort lords, except the Caliph, or great bishop the successour of *Mahomet*, who at the first was the onely Lordly Monarch or lord of all, giuing vnto kings and princes their principalities and kingdomes, during his pleasure, vntil that the *Othoman* princes, the *Curdes*, and the kings of the higher part of Asia and Afrike, by little and little exempted themselues out of their power (by reason of the diuision betwixt them and the *Anticaliphes*) and so tooke vnto themselues the kingdomes of those countries.

The marks of lordly Monarchies more to be seene in the Northern countries then in any other parts of Europe.

Charles the fift made himselfe the lordly Monarque of Peru.

All persons of what degree soeuer forbidden by the *Mahometain* lawes, the great Caliph only excepted.

A lordly monarchie is no tyranny.

E But yet here might some man doubt whether the lordly Monarchie be not a Tyranny, considering that it seemeth to be directly against the law of nature, which serueth vnto euerie man his libertie, and the soueraigntie ouer his owne goods. Whereunto I aunswere, that of auncient time it was indeed against the law of nature to make free men slaues, and to possesse himselfe of other mens goods: but if the consent of all nations will, that that which is gotten by iust warre should bee the conquerours owne, and that the vanquished should be slaues vnto the victorious, as a man cannot well say that a Monarchie so established is tyrannicall: seeing also wee read that *Iacob* the Patriarch, by his testament leauing vnto his children certaine lands that hee had gotten

gotten

gotten, said that it was his owne, for that he had got it by force of armes. And that more is, the rule that willerth that the law of armes should take no place where there be superiours to do iustice (which is put in practise against the greatest princes, and imperiall cities of Germany, who be proscribed by the empire, for not making restitution of that which belonged to others) sheweth right well, that where there is no superiour to command, their force is reputed iust. For otherwise, if we will mingle and confound the Lordly Monarchie, with the tyrannicall estate, we must confesse that there is no difference in warres, betwixt the iust enemy and the robber; betwixt a lawfull prince and a theefe; betwixt warres iustly denounced, and vniust and violent force; which the ancient Romans called plaine robbetrie and theft. We also see tyrannicall states and governments, soone to fall, and many tyrants in short time slaine: whereas the seigneure-like states, and namely the Lordly Monarchies haue bene both great and of long continuance, as the auntient Monarchies of the Assyrians, the Medes, Persians, & Egyptians; and at this present that of Æthiopia (the most auntient Monarch of all Asia and Afrike) whereunto are subiect fiftie kings as slaues, if we may beleene *Pan. Iouius*, who all are, and tearme themselues the slaues of the Grand Negus of Æthiopia. And the reason why the Lordly Monarchie is more durable than the royall, is for that it is more maiestically, and that the subiects hold not their liues, goods, and libertie, but of the soueraigne prince, who hath by iust warre conquered them; which plucketh downe the courage of subiects, so that the slaue acknowledging his condition, becommeth humble, abiect, and hauing as they say a base and seruile hart. Where to the contrarie, men free borne, and lords of their owne goods in a royall Monarchie, if one would make them slaues, or take from them that theirs is, they would not take it, but easily rebell, bearing noble harts, nourished in libertie, and not abastardised with seruitude. And thus much concerning a Lordly Monarchie: Now let vs speake of the Monarchie Royall.

While the lordly
monarchie is
more durable
then the royall
monarchie.

CHAP. III.

Of a Royall Monarchie.

A royall Mo-
narque.



The difference
betwixt a royall
and a lordly Mo-
narque.

Royal Monarch or king, is he which placed in souerainty yeeldeth himselfe as obedient vnto the lawes of nature as he desireth his subiects to be towards himselfe, leauing vnto euery man his naturall libertie, and the proprietie of his owne goods. I haue put to these last words for the difference of a Lordly Monarch, who may be a iust and vertuous prince, and equally gouerne his subiects, being himselfe yet neuerthelesse lord both of their persons and goods. And if it so chaunce the Lordly Monarch hauing iustly conquered his enemies countrey, to set them againe at libertie, with the proprietie of their goods; of a lord he becommeth a king, and chaungeth the Lordly Monarchie, into a Monarchie Royall. And that is it for which *Plinie* the younger saith vnto *Traian* the emperor, *Principis sedem obtines, ne sit Domino locus*, Thou holdest the seate of a prince, Lord it not. This difference (betwixt a Royall Monarch and a Lordly) was well noted by the auntient Persians, calling *Cyrus* the elder (which ouerthrew the Monarchie of the Medes) by the name of a king: but tearming *Cambyfes* a lord, and *Darius* a merchant; for that *Cyrus* was a gentle and courteous prince towards his subiects, but *Cambyfes* his sonne was haughtie and proud, and *Darius* too great an exactor and couetous. So it is also reported *Alexander* the Great to haue bene aduised by *Aristotle*, to beare himselfe towards the Greekes as a father; but towards the Barbarians as a Lord:

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A lord : which his counsell *Alexander* neuertheless rejected, willing that the Greekes should be reckoned of according to their vertue, and the Barbarians according to their vices; saying, that the whole earth was but one citie, and his campe the Castle thereof.

We haue moreover said in our definition, that the subiects ought to be obedient vnto the Royall Monarch, to show that in him alone lyeth the soueraigne maiestie; & that the king ought to obey the lawes of nature: that is to say, to gouerne his subiects, and to guide his actions according vnto naturall iustice, whose luster was brighter than the light of the sunne it selfe. It is then the true marke of a Royall Monarchie, when the prince sheweth himselfe as obedient vnto the lawes of nature, as he wisheth his subiects to be vnto himselfe.

The true markes
of a royall Monarche.

B Which it is not hard for him looking into the dutie of a good prince to obtaine; as fearing God aboue all; if he be also pitifull vnto the afflicted, wise in his enterprises, hardie in his exploits, modest in prosperitie, constant in aduersitie, aduised in his speech, wise in his counsell, careful of his subiects, comfortable to his friends, terrible to his enemies, courteous to the good, dreadfull towards the euill, and iust towards all. Which royall soueraignie so set downe, as that the subiects stand obedient vnto the lawes of their prince, and the prince likewise vnto the lawes of nature: the law being on both sides a mistresse, or as saith *Pindarus*, a queene raigning ouer both, it shall in the same bonds vnite the subiects among themselues, and together with their prince: whereof shall grow a most sweet harmony, which may with wonderfull pleasure and felicitie blesse them both.

C This is that regall and lawfull Monarchie of one; which we seeke after, whether the kingdome descend by succession, as it most commonly doth; or by the law, as this of ours, or by election, as in many kingdomes towards the North; or by gift, as the kingdome of Numidia (which by *Cesar* brought into the forme of a prouince, was by *Augustus* the emperour giuen to young *Inba*, who so of a slaue became a king) or as the kingdome of Naples, and Sicilie, giuen to *Charles* of Fraunce, and after to *Lewes*, first duke of Aniqu, or left by testament, as in former times the kingdomes of Tunes, Fez, and Marocco, and was also of late put in practise by *Henric* the eight king of England, who by his will left that kingdome vnto his son *Edward* the sixt, to whom hee substituted his sister *Marie*, and vnto her *Elizabeth*, who

D was afterward queene: or that the kingdome bee got by fraud and deceit, so that he raigne iustly, as *Cecrops*, *Hieron*, *Gelon*, and *Pisistratus*, who right wisely vsed their power, as saith *Plutarch*: and in our time *Cosmus de Medices*: or by chaunce, as the kingdome of Persia, by the neying of an horse fel to *Darius Histaspis* one of the seuen Persian lords, it being so before agreed, after they had slaine the Mages, who had vsurped the kingdome, that he whose horse first neyed, should haue the kingdome: or be it that the prince by force of armes, by right or wrong conquer his kingdome, provided that he vprightly gouerne the same so by him conquered; as *Titus Linius* saith of king *Seruius*, *Neque enim præter vim quicquam ad ius regni habebat*. Neither had he any thing but force vnto the right of the kingdome; and yet he was a good king, as it oftentimes

E hath bene seene of a robber and a theefe, to haue proued a vertuous prince; and of a violent tyranny, to haue growne a iust royaltie. Or be it that the king bee chosen for his nobilitie, as was *Campson* chosen Sultan of Ægypt by the Mamalukes: or for his iustice and deuotion, as *Numa* in Rome: or for his age, as the antient Arabians made choice of the eldest amongst them for their king, as saith *Diodorus*, and they of Taprobana, as saith *Pliny*: or for his strength and force, as *Maximinus* the Roman emperor, being of such stature and strength, as that he seemed to haue come of the race of Giants: or for his feature and beautie, as was *Heliogabalus*, therefore chosen emperour of the same Roman empire: or for his height and stature, as in Æthiopia the kingdomes

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were

were still giuen to the tallest: or for that he could drinke most, as in Scythia, as *Aristotle* saith; who defineth a king to be him, who chosen by the people, raigneth according to the desire of them his subiects: from whose will (as hee in another place saith) if he neuer so little depart, he becommeth a tyrant. Which his description is not only without reason, but also dangerous: for that soueraigne power which he said to bee most proper vnto a king, must so needs fall, if the king could nothing command against the liking and good will of his subiects; but must to the contrarie be constrained to receiue lawes of them. In brieft it should be lawfull for the people to do all things; and the most iust and best kings should so be accounted for tyrants: neither were a king to be reputed of any thing else, than as of a meane magistrat, vnto whome power were to bee giuen, and againe taken away at the peoples pleasure. Which are all things impossible, and no lesse absurd also, than is that which the same *Aristotle* saith, That they are barbarous people, where their kings come by succession. When as yet his owne king and scholler *Alexander* the Great, was one of them which descended in right line from the blood of *Hercules*, and by right of succession came to the kingdom of Macedon. The Lacedemonians should be also barbarous, who from the same stocke of the *Heraclides*, had had their kings about a thousand yeares. The people of Asia also, the Persians, and *Ægyptians*, should so all bee barbarous: in whome not onely rested, but from whome all humanitie, courtesie, learning, knowledge, and the whole source and fountaine of good lawes and Commonweales haue sprung: and so at last none but *Aristotle* with some handfull of Greekes should bee free from barbarisme. Whereas indeed nothing can be deuised more daungerous vnto the state of a Commonweale, than to commit the election of kings vnto the suffrages of the people; as shall in due place be hereafter declared. Although *Aristotle* be in that also deceiued, where he saith, That there be three sorts of kings; & yet hauing in his discourse reckoned vp foure, in casting vp of the account he findeth out a fift. The first hee calleth Voluntarie kings, as raigning by the will and good liking of the people, such as were the kings of Heroique times, whome he supposeth to haue bene Captains, Iudges, and Priests. The second he saith, are proper vnto the barbarous nations, where kings come by succession. The third are made by election. The fourth was proper to the Lacedemonians, whome he saith to haue bene perpetuall generals in their warres; the sonne still succeeding his father. The fift and last kind, is of them which hauing themselves got the Lordly soueraignie, vse their subiects, as doth the maister of the house his slaues. As for the first sort of kings, we find, that they indeed executed the offices of iudges, captaines, and priests, yet none of them are found to haue ruled at the will and pleasure of the people, either to haue receiued their authoritie from the people, before *Pitacus* king of Corinth, and *Timondas* king of Nigropont: but to the contrarie * *Plutarch* writeth, That the first princes had no other honour before their eyes, than to force men, and to keepe them in subiection as slaues: whereof the holy scripture also certifieth vs of the first Lordly Monarch *Nemrod*; leauing the soueraignie to their children, in right of succession; as saith *Thucydides*. Which hath also bene well confirmed by the succession of a great number of kings of the Asirians, Medes, Persians, Indians, *Ægyptians*, Hebrewes, Lacedemonians, Macedonians, Sicyonians, Epirots, Athenians: and their lines failing, the people in part proceeded to make choice of their kings by way of election, some others invaded the state by force, other some maintained themselves in Aristocratike and popular seigneurie; as witnesseth *Herodotus*, *Thucydides*, *Iosephus*, *Berosus*, *Plutarch*, *Xenophon*, and other most auntient historiographers of the Hebrewes, Greeks, and Latines, sufficient to conuince the opinion of *Aristotle* of vntuith in those things that he hath writ concerning kings. Whereas also

* *Polit. lib. 3.**Aristotle* blamed.The opinion of *Aristotle* concerning kings impugned. *Arist. Polit. 3.** *Plutarch* in *Thes.*

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A he comprehendeth the Lacedemonian generals, vnder the name of kings: he is therein deceived, seeing it is before declared, that he cannot be a king, which hath not the rights of soueraigntie. And that the Lacedemonian kings, after the conuersion of that Commonweale, were nothing but Senators, and subiect to the magistrats commaund, wee haue also before shewed. Yea the generals power was not alwaies giuen vnto them; as *Aristotle* supposeth, who calleth them the perpetuall generals of the warres: forasmuch as that power and authoritie was communicated to their citisens also; as to *Lysander*, *Leonidas*, *Callicratides*, *Gilippus*, whome the Lacedemonians oppressed with warres preferred before their kings. And albeit that *Agessiaus* was one of their kings; yet so it was; that he durst not take vpon him the charge of a generall, vntill the Seignurie had so commanded; as *Plutarch* in his liues reporteth. And when they were chiefe captaines and generals, they gaue them yet no royall power, no more than had the generals of the Achians, which were made by election, considering that they were subiect vnto the state of the Achians, who if they so deserued punished them, as they did *Democritus* their generall, whome they fined at thirtie thousand crownes, as wee read in *Pausanias*. So the Ephori punished their kings with banishment, imprisonment, and fines, yea and sometime with death, as we haue before said. We must not therefore put these in the ranke of kings, no more than him which is a Lordly Monarch; lord of the persons and goods of his subiects, who hath his proper difference seperated from a Monarch Royall.

C As for the third sort of kings, which he said was made by election, that can make no difference of kings, no more than can the second, which he said was by succession, for otherwise he should by the same meanes make also a sixth kind of kings, made by chaunce; as was *Darius* the first: and so a seventh by donation, an eight by testament, and a ninth by finnes and deceit, and a tenth by force: which were nought else, but to make an infinit sort of kings, who all neuerthelesse are comprehended vnder one kind. For the difference of Monarches is not to be gathered by the meanes of the comming to the state, but by the meanes of gouerning of the estate. Which as we said is comprised in three kinds or sorts, viz the Lordly Monarchie, the Royall Monarchie, and the Tirannicall Monarchie. But whereas *Aristotle* vnder the name of kings comprehendeth them also which were woont for a short time to be chosen, to establish or reforme the Commonweale, and that done, to giue vp their charge, are quite different from the regall power. Neither hath it any apparance to call them kings, which are nothing els but simple commissioners, such as were the dictators in the Roman Commonweale, whome *Dionysius Halicarnassensis* writeth, to haue bene in power and office like vnto them whom the Thessalians called *Archos*, the Lacedemonians *Cosmos*, the Mitylenians *Aesymctes*, hauing like charge that the bailey of Florence had at such time as that Commonweale was gouerned by a popular gouernment; that is to wit, the Grand Councill of the people made choyce of eight or ten persons, best scene in their affaires, to reestablish the state, and to put againe in order that which by procelle of time was fallen into disorder, either in their lawes, or in their customes, in their reuenues, or in creating of their officers: which done they discharged themselves of their offices: like as the Decemviri, or ten commissioners, which were chosen in Rome, to reforme that was amisse in the state, whome wee should by this meanes, according to the opinion of *Aristotle* call also kings; which should be a thing verie absurd; forasmuch as the qualitie of a magistrat, and much lesse of a commissioner hath nothing agreeing or common with the soueraigne maiestie of a king. And albeit that *Cesar* in his Commentaries saith, the inhabitants of Autun to haue euerie yeare chosen them a magistrat with royall power; that is of him but improperly spoken: for why, it is manifest,

The difference of Monarques here it is to be gathered.

Antigonus the first of the successours of Alexander that stiled himselfe king.

nifest, that he which was a magistrat could be no king. And that more is, the gouernours of the countries and prouinces conquered by *Alexander* the Great, although that after his death euerie one of them tooke vpon him the soueraigntie in the country or prouince that he gouerned; yet it was a long time before they durst stile themselves by the name of kings. The first that began was *Antigonus*, after the victorie by him obtained against *Ptolomeus Lagus*: after which he ser a crowne vpon his head, and vsed in his titles the name of βασιλεύς, or king. And immediatly after, the Egyptians called *Ptolomee* king; as to their imitation did the Assyrians *Seleucus*, and the Thracians *Lyfmachus* also. And not to go further, the aunient kings of Loraine and Burgundie, after that they had yeelded fealtie and homage vnto the German emperour, lost the name and soueraigntie of kings, and called themselves but dukes: for that now they were no more kings, according to that fit saying of *Martial*, *Qui rex est, regem Maxime non habeat*. For why, the name of a king is alwaies maiestlicall, and the most honorable that a soueraigne prince can haue: and for that cause the habit, the markes, the signes of kings, haue bene alwaies particular, and proper vnto themselves; as the royal armes, the golden robes, the crowne and scepter, not to be communicated vnto other men. And there was nothing that made the maiestic of the Roman kings so venerable, as the royall ornaments which *Tarquinius Priscus* brought from the antient kings of Hetruria, as we read in the histories. And the Romans themselves, after they had driuen out the proud *Tarquin* their king, although they abhorred the verie name of a king, and much more the gouernment, hauing chaunged the royall state into a popular: yet so it was, that the Roman Senat vsed to send vnto kings, their allies and confederats, the royall marks of kings; namely a diadem or crowne of gold, a cup of gold, the iuorie scepter; and sometime the popular robe embroidered with gold, & a chaire of iuorie, as the histories declare. And in the Commentaries of pope *Gregory* the sequenth, we read that *Demetrius* was by the scepter, crowne, and ensigne established king of Croatia and Sclauonia: of which things the bishops of Rome haue oftentimes bene liberall (should I say) or prodigall: as well as the emperours: yet had they no more so to do, then had the Greeke emperour *Anastasius*, who sent the Consularie ornament and titles of *Augustus* vnto *Clodoneus* king of Fraunce, who (as *Aymon* saith) receiued them in the citie of Tours: or than *Iustinian*, who gaue vnto king *Childebert* the title of a Senator: by which things it is certaine, to be derogated from the soueraignty of anothers maiestic, which is it selfe the chiefe, except they bee receiued from them that are in their confederation their superiours. But as for the Frenchmen they had not made any league with the Greeke emperours, but by their valour had thrust the Romans out of the possession of their kingdome. True it is, that betwixt confederats of equall power, ornaments of honour, as girdles, rings, and such like, may both bee giuen and receiued, without any emparement to their maiestic: but to receiue the honor of a Consull, or of a Senator, is as much as to acknowledge the maiestic of a superiour. *Frederike* the emperour (first of that name) sent vnto *Peter* prince of Denmarke, a sword and a crowne, with the title of a king, which was a title contrarie to the effect, considering that he yeelded himselfe vassall vnto the empire, and did fealtie and homage vnto the emperour, for the realme of Denmarke, promising and binding aswell himselfe as his successours, to hold that kingdome of the empire, in this forme, * *Rex Danorum Magnus se in potestatem Imperatoris tradidit, obsides dedit, iuramentum fecit, se successoresque suos, non nisi imperatoris & successorum eius permisu regnum adepturos*, The great king of the Danes hath deliuered himselfe into the power of the emperour, hath giuen hostages, taken his oath, that he and his successours shall not but by the sufferance of the emperour and his successours, take vpon them that kingdome. Wherein

* Tacitus lib 2.
Appianus, *Linus*
Pal. Max.

* Tritemius cap.
87.

A in he two wayes offended, first, for that allured with the ornaments sent him by the emperour, hee diminished his owne maiestie: and then for that he bound vnto perpetuall seruitude, not himselfe onely, but his posteritie also: who perceiuing the error, reuolted from the empire. for seeing that the kingdome of Denmarke depended of the voices and suffragies of the Senat and the people, hee could not bind, not onely his posteritie, but not so much as himselfe vnto that law. The duke of *Austria* also was by the same emperour, and almost at the same time, honoured with the same ornaments and title, yet with condition that hee should still remaine in the perpetuall obeisance of the German Empire, wherein he then was, and euer had beene: but when he breaking his faith, had reuolted from the empire, he was

B within twelue yeares after spoyled both of his royall dignitie and title. By like error *Henry* the first king of England, sonne to *William* the Conquerour, whilest he yet liued caused *Henry* his eldest sonne to bee crowned king: for he straight way after, would needs be equall with his father, and take vpon him to mannage the greatest affaires of state; in such sort that great quarrels and contentions arise betwixt the father and the sonne, euen vnto parts taking, which had without doubt ruinated the state, had not the sonne beene before by death prevented. So also in this realme, when the familie of the *Capets* had vsurped the kingdom, the better to confirme their wealth and power, not as yet well grounded; lest the kingdom after the death of their kings should fall into an Anarchie, they still caused their sonnes (whilest they themselues yet liued) to be crowned and proclaimed kings. So *Hugh* to assure this succession, caused his sonne *Robert* to be crowned king: *Robert*, *Henry*; and he afterwards *Philip*; which mannet of crowning of the sonnes, the fathers yet liuing, after their estate and power better confirmed and established, was againe left. And so to doe, vnto mee seemeth a thing

C verie daungerous, especially if the new crowned king be sicke with the ambitious desire of rule: for that the subiects more willingly behold the sunne rising then setting: except the king haue many kingdomes, with great fluds, most high mountaines, or the deepest seas, one from an other divided, not easily with the wings of aspiring ambition to be passed. So *Seleucus* king of both Asiaes, graced his sonne *Antiochus* not onely with the royall dignitie, but also placed him in the gouernment of the kingdome of the higher Asia; which is a thing may well be suffered whete kings haue vsed to be created

D by the voices of the Senat, and the people: as are the kings of Denmarke, Sueuia, Polonia, Tartaria, Bohemia, Hungarie, and Tunes: who commonly cause him whom they desire to raigne, to be before hand elected by the suffragies of the people, and to bind the princes by oath vnto him. So *Changuis* first of all the Tattar kings, cholen king by his subiects, caused *Hocata* his eldest sonne to be crowned king, himselfe yet liuing. And *Gostanus* king of Sweden hauing vsurped vpon that state against the king of Denmarke, caused his sonne *Henry* to be also cholen king. And *Frederik* now king of Denmarke, was cholen king in the yeare 1556, two yeares before the death of his father: who not yet so secured, but doubting least his vnclcs *Iohn* and *Adolphe* after his death should practize a new election, and so raise new stirres, requested the French king by *M. Danzai* the French embasadour, and afterward by an embasadour of his owne, (sent directly for that purpose) to stand his friend, and to receiue him into his protection. So haue done, and yet also doe the kings of Marocco, Fez, and Tunes. And in our memorie *Ferdinand* of Austria yet liuing, caused *Maximilian* his sonne to be cholen and crowned king of Hungarie and Bohemia: as shortly after *Maximilian* did the like for his sonne *Ernestus*; and so peoples voices by little and little taken away are at length quite buried in obliuion. The like was also attempted for the nominating of his successour by *Sigismundus Augustus* king of Polonia; but was letted so to

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Daungerous for
soveraign princes
to cause their
sonnes whilt
they themselues
yet liue to be
crowned kings
with them.

doe by the states of that kingdom, although it seemed for the good of that Common weal, for the auoyding of sedition, which might rise about the election: yet would not the states of that kingdom thereto agree; for feare least the right of their election, should so passe into the force of succession. As we see the German Empire to haue taken so deepe roote in the most honorable familie of the house of *Austria*, as that there is but little hope for the pulling of it out thence againe. And thus much concerning a royall Monarchie: now let vs likewise speake of the third kind, which is a Tyrannicall Monarchie.

CHAP. IIII.

¶ Of a Tirannicall Monarchie.

A tirannicall
Monarchie.



The name of a
tirant in auncient
time taken
in good part;
and how the
same became
odious.

Tirannicall Monarchie is that where one man treading vnder foot the lawes of God and nature, abuseth his free borne subiects as his slaues: and other mens goods as his owne. This word *Tyrant* deriued from the Grekes was of the proprietie thereof honorable, and in auncient time signified no other thing then a Prince, which without the consent of the people, had by force or fraud possessed himselfe of the state; and of a companion made himselfe their master: whom they called a Tyrant, although he were a right wise and iust prince. So *Plato* writing to *Dionysius* the Tyrant of *Syracusa* by way of honour giueth him this title; *Plato to Dionysius the Tyrant greeting*, and the answer was; *Dionysius the Tyrant to Plato health*. And so the rest aswell philosophers as friends, honestly called them Tyrants which had by force or finenesse got the soueraigntie of their cities and states: in which name the Tyrants themselves also gloried. And to show that the name of a Tyrant was aswell giuen vnto a good and iust prince, as to an euill and wicked, it appeareth evidently in that, that *Pittacus* and *Periander* reckened among the seauen Sages of Grace, were called Tyrants, hauing taken vnto themselves the state and government of their countries. But for the mercie of their enemies, were constrained for the safetie of their liues and goods to haue gardes of straungers about their persons, and great garisons in their fortresses and strong holds: and for the maintenance of their souldiours and retinue were enforced to lay vpon their subiects great impositions and tributes: and seeing their liues not yet so assured, hauing but poore friends, and puissant enemies, put to death, or banished the one, to enrich the other; and hauing taken their goods, rauished also their wiues and children: they with these outrageous enormities raised a wonderful hatred of themselves through out the whole world. For we read that *Dionysius* the elder which had oppressed *Syracusa* had alwaies about him for the garding of his person and the citie ten thousand footmen, and as many horsemen; beside a flete of foure hundred gallies still readie furnished with all things necessarie: and yet thought it not a strength sufficient to keepe vnder those fewe citizens that were left, whom he had vtterly disarmed, and in most seruile manner oppressed: although hee had before taken away not onely their societies and companies; but forbidden also neighbours and friends to eate together, and oft times commaunded them returning home from supper or making merie, to be robbed and spoiled by his garde; to the intent there might bee the lesse friendship amongst them, and so they more hardly conspire against him. And yet for all that *Plutarque* hath giuen him the praise of a good prince, as one who in iustice and vertue exceeded many, who abusing the most honorable names of Kings, are themselves polluted and defiled with all maner of vices. For we are not much to rest vpon the vaine show of words

A words and glorious titles; when as often times the worst men arrogate vnto them selues the most commendable names, shewes; and recognancies of vertue; against which sort of Princes, the subiects for all that vse to cast forth most reproachfull taunts: as the three *Ptolemeis* kings of Ægypt; of whom the one had put to death his brother; the other his mother; and the third his father: the subiects in derision called them * *Philadelphæ*, * *Philometor*, and * *Philopator*. Also the most reuerend and holy names haue become abhominable, for the wickednesse of them that haue most filthily abused the same. The name truely of a king is holy, yet was it for the pride of *Tarquinius*, and the rauishment of *Lucretia* by his sonne, made hatefull vnto the Romans. And the crueltie of *Scylla* in his Dictatorship made the Dictators odious. So the immoderat ambition of *Francois Valori* made the Consalonniere of Florence hatefull vnto the Florentines. And so also it is euident, the name of Tyrant to haue bene hatefull to all nations for oppressing of the people.

* A louer of his brother.
* A louer of his mother.
* A louer of his father.

But it may be, that one and the same prince, whose dominion is large and wide, may beare himselfe as a king vnto his naturall subiects; and as a lordly monarch towards them, whome he hath by iust warre subdued, and as a tyrant toward the rest: or that in the same citie he may tyrannise ouer the rich and better sort of the citisens; and yet show himselfe courteous and gentle vnto the poore and baser sort. And amongst tyrants there are diuers sorts and degrees of more or lesse: and as there is not so good a prince, which hath not some notable vice; so wee see that there is none so cruell a tyrant, which is not endued with some good vertue, or hath not in him some thing to be commended.

Wherefore it is a thing of most euill example, and thereto daungerous withall, rashly and foolishly to censure a prince, whose actions and comportments we thoroughly know not; whereas we ought first wisely to weigh his vertues and vices, his heroicall or base and euill disposition: after the manner of the Persians, who condemned no man to death (although conuicted of the crime whereof he was accused) except it first appeared by his former life, whether his vices exceeded his vertues or not. For so *Linie* did well, who hauing diligently reckoned vp *Hannibal* his vertues, and comming afterward vnto his vices, saith, *Hæstot ac tantas virtutes ingentia vitia æquabant*, These his so many and great vertues, were counteruailed with great vices.

A soueraign princes actions are not by his subiects to be rashly censured.

Wherefore least the good should be confused and so confounded with the bad; or that we should vnder the name of a tyrant comprehend them also which were right worthy and famous men: let vs compare the worst tyrant with the best king; that by such comparison of the two extreames, those may bee the better perceiued which are in the middest betwixt both. Now when I say the best king, my meaning is after the common manner: neither doe I seeke after such an one as is accomplished with all heroicall vertues; or the rare paragon of iustice, wisdom, and religion, a man without all imputation: which in the fables of auntient worthies, were propounded with more magnificence than truth, for princes to looke vpon and to imitat; such as neuer was, nor euer shall be: but rather such an example of a good and iust king, as is indeed in the ranke of princes to be found; and such an one as is alwayes readie to bestow his goods, his blood, and life, for the good of his people: What manner of prince is of *Homer* in two words called *ἄριστος βασιλεὺς*, whose whole endeuour is to bee indeed such an one as *Codrus* and *Decius* are reported to haue bene, who aduertised by the Oracle, that the victorie ouer their enemies depended of their death, without farther delay sodenly sacrificed their liues: and *Moyse* about all, whome *Philo* calleth the most wise law-giuer; a most iust prince, who besought God, That he might rather die the euerlasting death of the wicked, and haue his name blotted out of the booke of life, than that the people committed to his charge, should endure so great and grieuous punishment as it

The best king.

had deserued: by which prayers hee appeased the wrath of God, like a most good king, & true father of his people: than which name *Augustus* the great emperor is reported neuer to haue heard any title or addition, vnto him more pleasing, at such time as *M. Valerius Messala*, was by a decree of the Senat, and of the people of Rome, called *Father of his countrey*. For why, the best prince nothing differeth from the best father, as *Xenophon* was woont most excellently to say.

The greatest difference betwixt a king and a tyrant.

Now the greatest difference betwixt a king and a tyrant is, for that a king conformeth himselfe vnto the lawes of nature, which the tyrant at his pleasure treadeth vnder foot: the one of them respecteth religion, iustice, and faith; whereas the other regardeth neither God, faith, nor law: the one of them referreth all his actions to the good of the Commonweale, and safetie of his subiects; whereas the other respecteth nothing more than his owne particular profit, reuenge, or pleasure: the one doth all his endeouour for the enriching of his subiects; whereas the other seeketh after nothing more, than by the impouerishment of them, to encrease his owne wealth: the one of them accounteth his owne goods to be the goods of his people; the other reckoneth not onely the goods, but euen the bodies of his subiects also to be his owne: the one of them seuerely reuengeth the publique iniuries done against the state, and easily pardoneth the wrongs done vnto himselfe; the other most cruelly reuengeth his owne, and pardoneth that which is done against others: the one easily forguieth the offences of other men, but is of his owne misdeeds a seuerer iudge; whereas the other most sharply reuengeth euen the least offences of others, but is vnto himselfe most fauourable: the one of them fauoureth the honour of modest matrons, and other mens wiues; the other triumpheth in their shame and dishonour: the one refuseth not to bee freely and discreetly reprov'd for that he hath done amisse; the other hateth nothing more than the graue free spoken man: the one enforceth himselfe to maintaine and keepe his subiects in peace and vnitie; whereas the other seeketh still to set them at odds, so to ruinate them one by another; and with the confiscation of their lands and goods to enrich himselfe: the one taketh pleasure to see his subiects, and to be of them oftentimes seene and heard; whereas the other feareth their presence, and hideth himselfe from them, as from his enemies: the one reposeth his estate and fealtie in their loue towards him; the other in their feare: the one taketh no care but for his subiects; the other feareth nothing more than them: the one chargeth his subiects as litle as he can, neither exacteth any thing of them, but when the publique necessitie so requireth; whereas the other drinketh his subiects blood, gnaweth their bones, and out of them also sucketh euen the marrow, so by all meanes seeking to weaken them: the one aduanceth vnto the highest degrees of honour the best and most vertuous men; whereas the other still promoteth the greatest theeves and villaines, whome he may vse as sponges, to sucke vp the wealth of his subiects: the one frankly bestoweth the greatest and most gainful offices of the state vpon men of best deserts, who free from briberie & corruption, may defend the people from all iniurie and oppression; whereas the other setteth the same to sale to such as will giue most for them, so by their robberies and vnreasonable exactions, to keepe the people vnder, and then afterward when they are well fatted, to cut such caterpillers throates also, so to be accounted great iusticiars: the one measureth his manners, according vnto his lawes; the other measureth his lawes, according to his owne disposition and pleasure: the one is readie to expose his life for the good of his countrey and people; the other wisheth it and them all to perish for himselfe: the one is beloued and honoured of his subiects; the other hateth them all, and is likewise of them hated: the one in time of warre hath no recourse but vnto his owne subiects; whereas the other hath no greater warre than against them: the one hath neither

guard

A guard, nor garrison, but of his owne people; whereas the other for the defence of his person, and keeping of his subiects in awe, hath alwayes a garrison of armed straungers to go before him: the one liueth secure in all quiet and tranquillitie of mind; the other troubled with carefull and contrarie thoughts, still languishing in perpetuall feare: the one expecteth a most blessed and eternall life in heauen; the other still fearing euermourning paines of hell: the one hath the immortall good author of all his actions; the other followeth the aduise of wicked men and damned spirits: in brieft the one is praised and honoured of all men whilest he liueth, and much missed after his death; whereas the other is defamed yet liuing, and most shamefully reuiled both by word and writing when he is dead. And albeit that a tyrant abound in wealth, haue honour, soueraintie, health, and surpassing Champion like strength of bodie, with the deepe and profound knowledge of many and great matters, and flowing eloquence most of tyrants to be in others feared; yet shal he therefore be neuer the better, but wel the worse; abusing his wealth to fulfill his lust; his soueraintie, to the oppressing of other mens libertie; his strength for the performing of his villanie; and his knowledge for the circumuenting of the plaine and simple, and shamefull confusion of all things. Which so many and notable gifts, if they chaunce by the grace and goodnesse of God to bee giuen to any good prince: we then esteeme of him, as of a God, sent euen down from heauen into the earth here amongst vs.

C But what need we to vse many examples to proue this to be true, being of it selfe so manifest in euerie mans eye. And seeing that we find in histories tyrannie to haue bene of all men so much feared, hated and detested, that euen schollers and weake women haue not doubted to aduenture with daunger of their liues, to gaine vnto themselues the honour of the killing of tyrants. As did *Aristotle* (not hee of Stagira, but hee that was surnamed the Logitian) who slew a tyrant of Sicione. And *Thebe*, who slew her husband *Alexander*, tyrant of the Pheræans. And to thinke that tyrants might by force warrant themselues, is but meere and vaine error. For who were of greater force than were the Roman emperors, who ordinarily had fortie legions at their command in their prouinces, and three moe in Italie, beside their Prætorian bands, for the defence of their persons: and yet in no place in the world were there so many princes slain; yea sometimes the captaines of their guards slew them euen in their pallaces, whome they guarded. As *Cherea* the tyrant, and the Mamalukes eight Sultans of Egypt.

Tyrants slaine by effeminate and weake persons.

Tyrants neuer in safetie.

E But he that would see the miserable ends of tyrants, let him but read the liues of * *Timoleon*, and of *Aratus*, where hee shall see the tyrants drawne out of the nest of their tyranny, stripped starke naked, the eues beaten to death with clubbes in the presence of Children, and the rest of the common people: and after that their wiues and children, their kinsfolkes and familiar friendes most cruelly murdered and slaine: and that more is the verie image & statues of them that were dead in their tyranny, accused, and publicly condemned, deliuered vnto the common hangman to bee as it were executed; their bones also taken out of their granes, and cast into most lothsome iakeffes, and the raking officers of these tyrants dismembred, and most miserably tormented with all the cruelty that a people enraged could deuise: their edicts & laws torn, their castles and proud houses rased and laid euen with the ground, and the verie memorie of their name, by publicke iudgements and written bookes, condemned to perpetuall infamie, as an example to all future princes, to the end they might haue in detestation such plagues, so pernicious and dangerous vnto mankind.

* *Plutar in Arato et Timoleone*

And albeit that tyrants whilest they liued, haue not wanted their flattering clawes, backs, whome they with rewards enduced to write their vnworthie prayes; yet wee read,

Tyrants alwayes infamous and detested.

read, that after their death, such their histories, and panegiricall orations, before written in their prayes, were burnt, torne and suppressed, and the truth (yea sometime with more too) brought to light, & in stead of them other most reprochfull and contumelious writings published, in such sort, as that not so much as one small fragment of any booke written in the prayse of any tyrant, were he neuer so great, is now extant or to be found. Which thing maketh tyrants, whilest they yet liue to fret and fume as if they were mad: for that they see they must in time become a laughing stocke vnto the people and their verie enemies. And albeit that they euill perswaded of the immortallitie of the soule, thinke the same to perish together with the bodie, or haply before the body, which embaulmed with sweet odours may be long preserued, yet so long as they liue they still feele the torment of the infamie to come, which they yet liuing see shall befall them after their death. Whereof *Tiberius* the emperour grieuously complained, but *Nero* much more, who wished that when he died, yea that whilest hee yet breathed, all the world might with fire be consumed. And for this cause *Demetrius*, surnamed *Poliorcetes*, to gratifie the Athenians vnderooke the warre for the defence of their rights and libertie, to the intent to be honoured by their learned writings; knowing well that the citie of Athens was as it were the watch of the whole world, which might in like sort make the glorie of his noble acts to shine throughout the world, as doth a beacon set on fire vpon the top of an high tower: neither was he therein deceiued: but so soone as he gaue himselfe over vnto vices and villanies, there was neuer tyrant better (than he was by them) washed; hauing his name most shamefully by them defamed, by whome he had bene before commended. And albeit that some may think tyrants, for that they haue no taste of true praise, to care the lesse what posteritie either thinke or say of them, yet in truth liue they most miserably, if their life be so to be called, which liue in continuall teare, still feele the most sharpe sting of griefe; seeing themselves, their lawes, their wiues and children, their kinsfolks and friends, euer in daunger. For it is impossible for him that hateth and teareth his subiects; and is againe of them all himselfe also hated and feared, to be able long to continue or stand. Whereby it cometh to passe, that in stead of being assailed by his enemies, hee is oft times vppon the sodaine assailed by his owne subiects. Neither may hee repose any trust or confidence in his friends, vnto whom he is himselfe oftentimes a traytour and disloyall, causing them for the least suspicion to be slaine: as we read it reported of *Nero*, *Commodus*, *Caracalla*, and such other tyrants. And sometime the whole people with one rage and furie runneth headlong vpon the tyrant, as it did vpon *Phalaris*, *Heliogabalus*, *Alcetes* tyrant of the Epirots, and vpon *Andronicus* emperour of Constantinople, whom stript and set vpon a bare asles backe, the people of Constantinople caused to endure all the indignities and reproaches that were possible, before they would giue him leaue to die. Yea and sometimes it chanceth, that euen they themselves are the occasion of the hastening of their owne death, as it is reported of *Caracalla* the emperour, who would needs know of *Iulius*, his mothers Mathematician, whom he thought should succeed him in the empire (for that is a common course amongst tyrants in their affairs and doings, to aske the councell and aduise of wisards and diuels) vnto whome the Astronomer by his letters answered, That *Macrinus* was the man that should succeed him; which letters by chaunce falling into the hands of *Macrinus*: he thereupon forthwith caused *Caracalla* to be slaine, for feare of the danger prepared for him by *Caracalla*. So *Commodus* also, hauing hardly escaped the stabbe which a murtherous villaine was about with a dagger to haue giuen him, (who in giuing of the blow said, That the Senat had sent him that) straight waies after made a roll of al them whom he purposed to put to death: which roll by good hap comming into the hands of *Martia* his concubine,

Tyrants still tormented with the teare of iuncure in famy.

Tyrants oftentimes to hasten their owne deaths in seeking to elchue the same.

A bine and she therein finding her owne name enrolled amongst the rest, to auoid the daunger prepared for her and the rest, caused the tyrant to be forthwith slaine. Of like examples all the auncient histories are full, which show plainly the liues of tyrants to bee alwayes beset with a thousand ineuitable mischiefs, death still hanging ouer their heads.

The happie estate of a good Royal prince, in comparison of a Tyrant.

Now the state of a royall Monarchie is quite contrarie vnto a tyrannie; for the king is so vnited with his subiects, that they are still willing to spend their goods, their blood, and liues, for the defence of his estate, honour, and life; and cease not after his death to write, sing, and publish his prayes, amplifying them also in what they can. As we see in *Xenophon* the liuely purtraict of a great and vertuous prince, drawne vnder the person of *Cyrus*, whose praises he hath with wonderfull eloquence set forth, to giue example to other princes for to imitat and conforme themselues vnto; as did *Scipio Africanus*, who hauing alwaies before his eyes and in his hands *Xenophon* his *Cyropædia*, and framing himselfe to the imitation thereof, profited so much, as that he in vertue, honor, and prowesse, surmounted all the kings and princes, not of his owne age onely; but of former times also; in such sort, that certaine pirats enflamed with the report of his fame, and knowing that he was in his house in the countrey farre from any towne, came and beset the same: against whom as he was about to put himselfe with his people in readinesse, and so to haue stood vpon his guard: they perceiuing the same, forthwith threw downe their armes, assuring him that they were not come thither, but onely to see him, and to do him honour, which they most humbly requested, that they might be admitted to do him.

The worthe praise of Scipio Africanus.

B Now if the lustre and brightnesse of vertue in such a prince, hath drawne euen theeues and pirats into the admiration thereof; than of how much greater force ought it to be in good and loyall subiects? And what prince is there so foolish or void of sence, which would not wonderfully reioyce to heare it reported, how that *Menander* king of the *Bactrians*, was for his vertue & iustice so well beloued of his subiects, as that after his death the cities were at great strife & debate amongst themselues, which of them shuld haue the honor of his sepulchre: neither could the matter be appeased, vntill that at length it was agreed, that euerie one of them should in the honour and memoriall of him build a seuerall tombe or sepulchre.

D What tyrants malice also or dissimulation is so great, whome *Plinie* his Panegyricall oration would not driue into a phrensie? who when he had therein with all worthe prayes so adorned *Traian* the emperour, as that it seemed nothing more could thereunto be added: he so concludeth the period, That nothing greater or better could be wished for vnto the Commonweale, but that the immortall gods would imitat the life of *Traian*. Which excessiue amplification, although it sauour of impietie, yet who doubteth but that it proceeded from the zeale of a most famous man, towards his most excellent prince? for whose daunger at his going out, and welfare at his comming home, all the temples were filled; and who himselfe in his solemn prayers, was thus woont to couenant with the gods, That they should keep and preserue him, if they saw it to be for the good of the Commonweale.

E What tyrant is so cruell, what show foeuer he make, which most hartily wisheth not for the honour which king *Agessilaus* receiued, at such time as he was fined by the Ephori, for hauing alone robbed the hearts and gained the loue of all the ciizens vnto him? What king is there; which wisheth not to haue the surname of *Aristides* the Iust? a title more diuine and royall than euer prince yet knew how to get: albeit that in stead thereof many haue caused themselues to be called Conquerors, Besiegers, Lightnings. Now on the contrarie part, when as we read of the most horrible cruelties of *Phalaris*, *Busiris*, *Nero*, and *Caligula*, who is he which is not moued to a iust indignation against them? or hearing of their miserable

and

and wretched ends, can containe himselfe from reioicing thereat?

Necessarie seueritie not to be accounted tyrannie but to be in a soueraigne prince much commended.

Thus haue we seene the most remarquable differences betwixt a king and a Tyrant, which are not hard to be perceiued betwixt the two extremes of a most good king, and a most detestable Tyrant: but is not so easilie to be deemed, when the prince taketh part of a good king, and some other part of a tyrant: so as it were tempering the good with the bad: For so things oft times fall out, that for the varietie of times, places, persons, and other occasions presenting themselves, princes are constrained to doe such things, as may seeme vnto them tyrannicall, and vnto others commendable. Wherefore let no man measure Tyrannie by Seueritie, which is oft times in a prince most necessarie: neither for his castles, gardes, and garisons: neither by the soueraigntie of his commaunds, which are in deed more to be wished for, then the sweet requests of tyrants: which draw after them an ineuitable violence. And that is it for which in law, he which hath bound himselfe at the request of a Tirant, is alwaies againe to be restored into his former estate, wherein he was: whereas if he that shall so doe at the commaundement of a good prince shall not by the law be relieued: neither are those murders, proscriptions, banishments, incests, rauishments, and other such villanies which happen in ciuill warres, in the chaunging or destruction of the states of Commonweales, or the establishment of the same, to be called tyrannies: for that in such violent conuersion and chaunge of state, it cannot otherwise be. As it fell out in the Roman Triumuirat, in the election of diuers Emperours, and in our time *Cosmus de Medices*, first taking vpon him the dukedome of Florence. For he after the death of his kinsman *Alexander Medices*, slaine by the conspiracie of his enemies, tooke vnto himselfe a strong garde of straungers for the defence and safetie of his owne person: built castles and strong holds: fortified the citie with strong garrisons: imposed new tributes and customes vpon the subiects; which vnto the common people, and men abusing the popular libertie, seemed violent oppressions and tiranies: but vnto the wise men necessarie and wholsome remedies: especially in such a sicke citie and Commonweal, as with most desperate diseases and incurable vlcers was like otherwise to haue perished: as also against such vnruely citizens, and inured to all licentious libertie; who had a thousand times conspired against this new Duke, reputed for one of the most wise and vertuous princes of his time: but of them accounted a tyrant.

Seueritie in a prince more wholsome for the Commonweale then lenitie.

Now to the contrarie it hapneth often that the state of a citie or Commonweal ruined by the too much lenitie and facilitie of one prince, is againe relieued and vpholden by the austere seueritie of an other. It is sufficiently knowne how terrible the tyranie of *Domitian* was vnto the Senat, the nobilitie, and other the great lords and gouernours of the Roman Empire; in so much that all his lawes and edicts were by their procurement after his death repealed: and yet for all that was he euen after his death also most highly by the generall consent of all the prouinces commended: for that the Proconsuls with the other magistrats and officers of the Commonweal, were neuer before more vpright or freer from corruption then they were in his time, for feare they had of his seueritie, & him. But when *Nerua* who succeeded him in the Empire, abhorring senerity, enclined altogether to lenitie, & things began to fall into a most miserable estate; the lawes being prostituted, iustice peruerred, and the poore by the mightie oppressed: then *Fronto* the Consul with many moe with most earnest desire, wished for that crueltie and tyranie which they before had condemned in *Domitian*. Also when a prince with most sharpe seueritie as with a bridle, keepeth in the mindes and licentious desires of a furious and headstrong people, as if it were an vntamed beast: such wholsom seueritie ought in no wise to be accounted or called tyranie; but to the contrarie *Cicero* calleth such licentious libertie of the vnruely people meere tiranie.

It may be also that a prince may exercise tiranie against the great ones in the state, as

A it alwaies hapneth in the violent chaunge of an Aristocratie into a Monarchie; when as the new prince being in necessitie and poore, and not knowing where to haue money, oft times falleth vpon the rich, without regard of right or wrong: or else infranchiseth the common people from the seruitude of the nobilitie, and the rich by that one and selfe same act to gaine the goods and wealth of the rich, and the sauiour of the poore. But of all tirants there is none lesse to be detested than he which preieth vpon the rich to ease the necessitie of the poore. Now they that praise the goodnes, bountie, and courtesie of a prince, without wisdom; at themselves vnwise and ignorant in matters of state, abusing therein both their praises and leaseure: for asmuch as such simplicitie without wisdom is most dangerous and pernicious vnto a king, and much more to be feared than is the great seueritie of a cruell, couetous, and inaccessible prince. So that it seemeth our auntient fathers not without cause to haue vsed this Proverbe, *That of a craftie and subtil man is made a good king*: which saying vnto the delicate eares of such as measure all things by false opinions rather than by sound reasons, may seeme right strange: for by the too much sufferance and simplicitie of too good a king, it commeth to passe that flatterers, extorcioners, and men of most wicked disposition, without respect, inioy the principall honors, offices, charges, benefits, and preferments of the Commonwealth, spoyling the reuenues of the state: wherby the poore people are gnawne vnto the verie bones, and cruelly made slaues vnto the great: in somuch as that in stead of one tirant, there is ten thousand. Out of which corruption also of the magistrats, and too much curtesie of the king, proceed many mischiefes and euils; as impunitie of offenders, of murderers, and oppressours: for that the king so good and so gracious cannot refuse to graunt them pardon. In brieft, vnder such a prince the publique good is turned into particuler, and all the charge falleth vpon the poore people: as wee see in cathares and fluxes in sicke and rheumatique bodies, the maladie still falleth vnto the weakest parts; which to be so, we might proue by many examples aswell of the Grekes as of the Latins: but we will go no farther than to this our owne * realme, which was in the most miserable case that euer it was, vnder the raigne of *Charles* surnamed the simple, and of some called *Charles do nothing*. It was seene also, great, rich, and flourishing, in armes, lawes, and learning of all sorts in the time of *Francis* the first: but especially some few yeares before his death, when as he waxing old, became so wayward and inaccessible, as that no man durst come vnto him to craue any thing of him; hauing driuen the courtly doggs, and shameles persons far from him, bestowing rewards, offices, honours, and benefits vpon none but such as were vertuous, and had well deserued of the Commonweale: and withall so gouerning his bountie, as that at the time of his death were found in the common treasure almost a thousand *Sestertioes*, that is to say, seauentie hundred thousand french crownes, besides three moneths tribute which was now due: neither was the Commonweale vnto any then indebted; more than vnto the Swissers, and the Banque of Lyons, whom he would not pay, so to keepe them in awe: at which time he had firme amitie and peace also with all princes and people: and the bounds of his kingdom extended euen vnto the gates of Millan: his realme full of great captaines, and of the wisest men of the world.

Diuers causes inducing princes vnto Tyrannie.

A true Paradox.

The happie estate of France vnder king Francis the first, a wayward and hard Prince.

But within twelue yeares after that *Henry* the second his sonne raigned (whose bountie was so great, as that the like was neuer in any prince of his time,) we saw the state almost quite chaunged: for as he was sweet, gracious, and courteous, so could he not denie any thing to any person; so that his fathers treasures were in few moneths scattered, the great offices and places of commaund were set to sale more than euer, the greatest spirituall preferments without respect bestowed vpon vnworthy men, magi-

The lenitie and immoderate bountie of king Henry the second, most hurtfull vnto the kingdome of France.

stracies sold to them that would giue most, and so consequently to the most vnwor- **F**
 thie greater customes and payments exacted than euer were before: and yet when hee
 died, the estate of the receipt of Fraunce was found charged with two and fortie milli-
 ons, after it had lost Piemont, Sauoy, the isle of Corsica, and the frontiers of the Low
 cuntry: Howbeit that all these losses were but little, in comparison of the losse of
 his reputation and honour. Whereas had the facilitie of this great king bene tempe-
 red with seueritie, his lenitie with some rigour: his bountie, with a certaine sparing,
 and that for a weake and soft spirit, he had borne a stout and couragious mind: we had
 no doubt liued both well and happily, neither had the Commonweale fallen into such
 miserable calamities as now we haue endured.

But to hold this golden meane (some man will say) as it is hard for euerie man to do: **G**
 so for princes whom diuers strong perturbations call out of the middle course vnto
 the one or other of the the extreames, it is of all others most hard. True it is, that ver-
 tue consisting in the meane, is enuironed with many vices, much like vnto a straight
 line, which is hard to be found among a million of crooked: which graunted, yet so
 it is neuertheless, that it is better and more expedient for the people and the preserua-
 tion of an estate to haue a rigorous and seuerie prince, than too gentle and courteous.
 The bountie of the emperour *Pertinax*, and the enraged youthfulness of *Heliogaba-
 lus* had brought the Roman empire euen vnto the verie point of vtter ruine: when as
 the emperours *Seuerus* of Afrike, and *Alexander Seuerus* of Syria, by a rude kind of se- **H**
 ueritie and imperiall austeritie reestablished the same, in the former brightnes and ma-
 iestie, to the great and wonderfull contentment of all good men. Thus therefore is the
 prouerbe that we receiued from our auncestors (*That of an euill and subtill man is made
 a good king*) to be vnderstood: for otherwise the word *euill*, of the proprietie of it selfe
 signifieth not so much seueritie, as the vttermost point, or the extremitie of impietie,
 which our auncestors called *euill*: so *Charles* king of Nauarre was called an euill king,
 than whom none was more wicked of his time. Wee must not therefore iudge a
 prince to be a tyrant for his seueritie and rigour, so that he do nothing contrarie to the
 lawes of God and nature. But forasmuch as this discourse hath brought vs on so far,
 let vs see also whether it be lawfull for a good man to lay violent hand vpon the person
 of a tyrant. **I**

How the para-
 doxe, That of an
 euill and craftie
 man is made a
 good king, is to
 be vnderstood.

CHAP. V.

*Whether it be lawfull to lay violent hand vpon a tyrant; and after his death to dis-
 null all his acts, decrees, and lawes.*

Who is proper-
 ly a Tyrant and
 that hee may
 lawfully be of
 any man slaine.



He proprietie of the word *Tyrant*, being not well knowne, hath de-
 ceiued many, and armed the subiects vnto the destruction of their
 princes. We haue before said him properly to be called a Tyrant,
 who of his owne authoritie taketh vpon him the soueraignie, against **K**
 the will of the people, without election, or right of succession, neither
 by lot, by will, nor iust warre, nor speciall calling of God: and this is
 he, whome poth the lawes and the writings of auntient fathers commaund to be
 slaine; propounding also most ample rewards vnto such as should kill him: viz. the
 honourable titles of nobilitie and prowesse, armes, statues, crownes, and in brieft
 the goods of the Tyrant also; as vnto the true deliuerer of his cuntry, or as the Creten-
 sians vse to say of his mother. Neither in this case make they any difference betwixt a
 good and a vertuous prince; or a wicked man and a villaine. For it is not lawfull for
 any man liuing, of himselfe to inuade the soueraignie, and to make himselfe maister
 of

A of his fellowes, what colour of vertue or iustice soeuer they pretend : and that more is, in law he is guiltie of death, that wrongfully taketh vppon him any the markes proper vnto soueraigne maiestie. If then the subiect will inuade or take vppon him the state of his king by any meanes whatsoever; or in a popular or Aristocraticall state, dorth of a companion make himselfe a soueraigne, hee deserueth death : So that our question in this respect hath in it no difficultie, but that such aspirers may of all the people, or any of them, be lawfully slaine. Yet true it is, that the Greekes haue in this point differed from the Latins; as whether a man in this case ought by way of fact to pteuent the course of iustice? For why, the law Valeria published at the request of *Pub. Valerius Publicola* giueth leaue to euery man to kill a Tyrant, and afterward to trie the cause of him so slaine. Which law seemeth also not to want good ground of reason : for that to proceed by way of iustice, the Commonweale should bee consumed with the firebrands of tyranny, before the fire once kindled could bee quenched: Besides that, who should cal into question of iustice the Tyrant, armed with his guard and garrisons? who should take him being possessed of the castles and strong holds? were it not better by times to oppresse him by force, than by too religious standing vpon the proceeding of the law, to loose the law together with the state? Howbeit the law of *Solon* is quite contrarie vnto this, expressly forbidding to proceed by way of fact, or to kil him that seeketh to possesse himselfe of the soueraignie, but first to bring him vnto his triall; which seemeth more reasonable than the law Valeria: For that otherwise good & innocent men might oftentimes be taken out of the way and slaine by their enemies, vnder the color of aspiring, before the truth could be tried: who so once dead, are in that regard alwayes accounted as men iustly slaine. But these two lawes so repugnant and contrarie, may in mine opinion thus, be well reconciled; if the meaning of *Solons* law be referred vnto him, who suspected of aspiring, hath not as yet possessed the castles or strong places, seduced the people, nor armed himselfe with strong garrison: and the law Valeria vnto him who hath openly declared himselfe a Tyrant, seised vppon the castles and citadels, and strengthened himselfe with garrisons. In the first case wee find that *Furius Camillus* the dictator, by way of iustice proceeded against *Marcus Manlius Torquatus*: and in the second case *Brutus* and *Cassius* euen in the Senat and most open assembly of the people, slew *Cesar*, thinking of nothing lesse: But *Solon*, when as he too religiously (should I say) or superstitiously, had ordained that Tyrants should be lawfully tryed before they were put to death, whilest he yet liued saw *Pisistratus* of a subiect to aspire vnto the soueraignie of the Athenian state, against whome for all that they which slew the Tyrants at Athens proceeded not by way of iustice; whose children neuerthelesse *Harmodius* and *Aristogiton* slew, contrarie vnto the law, by the priuat authoritie of *Solon* onely.

Whether a Tyrant may be lawfully slayne before he be lawfully tried and conuicted;

E But here might many questions be made, as, Whether a Tyrant who by force or fraud hauing oppressed the libertie of the people, and so aspired vnto the soueraignie, may be iustly slaine; hauing after his aspiring caused himselfe to be so chosen or confirmed by the voyces of the people in generall? For why, it seemeth that such a solemn act of election, is a true ratification of him in his tyrannie, the people consenting thereunto. Yet am I neuerthelesse of opinion, that he may lawfully be slaine, and that without any lawfull processe or triall, except he shall first renounce his authoritie, quit his forces, and so put himselfe into the power of the people: for why, that cannot bee thought to be done by the free consent of the people, which they do by constraint, being by the Tyrants dispoyled of their authoritie and power. As when *Sylla* caused himselfe to be confirmed dictator for fourescore yeares, by the law Valeria, which hee caused to be published, hauing at the same time a strong and puissant armie of his own

Whether a Tyrant hauing aspired vnto the soueraignie, and afterwards confirmed therein by the consent of the people in generall, may yet lawfully be slayn

* *Lib. de legibus.*

within the citie : * *Cicero* said, That it was no law at all. And in like case *Cæsar*, who about thirtie sixe yeares after, caused himselfe by the law *Servia*, to bee made dictatour perpetuall. And also *Cosmus Medices*, who after the death of his kinsman *Alexander* hauing an armie in the citie of Florens, caused the Senators to chuse him duke of that citie for euer : about which election whilest they made some doubt, hee so thundered with his artillerie before the pallace, as that the Senat doubting otherwise of the safetie of themselves, and of the rest of the citicens, hastened the rather, to make choyce of him. Howbeit if the children or posteritie of a tyrant, shall for long time, as by the space of an hundred yeares, in continual possession hold the soueraigntie, possessed by their great grandfathers or auncestours, and so by their iust commaunds, gouern the Commonweale ; such a gouernment ought not now to be called a tyrannie, for that in this case, as in all other things, a prescription of so many yeares serueth in stead of a iust title. And whereas it is said, that the rights of soueraigntie cannot be prescribed : that is to say, in lesse then an hundred yeares, and concerneth priuat men, who the Commonweale yet standing vpright, seeke to vsurpe the soueraigntie, but concerneth not the generall conuersion or change of the whole state of a Commonweale. Wee said that the possession of the posteritie of a tyrant ought to be of long continued without interruption or interpellation : that is to say, that the subiects haue not with any conspiracie rebellion, or intercession, troubled the gouernment of the tyrant, or of his posteritie : for thereby it is in a sort euident, and to bee gathered, the subiects of their owne accord to haue yeelded vnto his commaunds, and to haue taken him for their iust prince. But interpellation or gain-saying, and resistance, may aswell be showed & declared by deeds as by words : of which sort was that which *Aquila* the Tribune of the people did, who in sight of all the people tooke off the crowne that was set vpon the head of *Cæsar*s statue, *Cæsar* himselfe in vaine fretting thereat ; who afterwards vnto such grants of honours and preferments as he gaue vnto his friends, would still adde that, *If by Aquila his leaue we may do it*. And thus much concerning a Tyrant, whether hee bee a good man or an euill, who without all right hath aspired vnto the soueraigntie of the Commonweale wherein he liueth.

Whether a law-
ful soueraign
prince tiranizing
may of his sub-
iects be lawfully
slayne or not.

But the chiefe question of this our discourse, is to know, whether a soueraigne prince come vnto that high estate by election, or by lot, by rightfull succession, or by iust warre, or by the especiall vocation of all-mightie God ; forgetting his dutie, and become without measure cruell, couetous, and wicked, so peruerting the lawes of God and man, and such an one as we commonly call a Tirant, may be lawfully slaine or not. And true it is that many interpretours, both of Gods and mans lawes, haue said it to be lawfull : many of them without distinction ioyning these two incompatible words together, *a King a Tyrant* : which so dangerous a doctrine hath bene the cause of the vtter ruine and ouerthrow of many most mightie empires, and kingdomes. But to discide this question wel, it behoueth vs to distinguish an absolute soueraigne prince, from him which is not so : and also subiects from straungers, according as wee haue before declared. For it is great difference to say that a Tirant may lawfully be slaine by a prince a straunger ; or by his owne subiect. For as of all noble acts, none is more honorable or glorious then by way of fact, to defend the honour, goods, and liues of such as are vniustly oppressed by the power of the more mightie, especially the gate of iustice being shut against them : as did *Moyse* seeing his brother the Israelite beaten and wronged by the *Ægyptian*, and no meanes to haue redresse of his wronges ; so is it a most faire and magnificall thing for a prince to take vp armes to relieue a whole nation and people, vniustly oppressed by the crueltie of a tirant : As did the great *Hercules*, who traueling ouer a great part of the world with wonderfull prowes and valour destroyed

That a prince ty-
ranizing may by
an other straung
prince be lawfull
ly slaine.

A destroyed many most horrible monsters, that is to say Tyrants: and so deliuered people without number among the gods: his posteritie for many worlds of yeares after, holding most great kingdomes, and other the imitators of his vertues: as *Dio*, *Timoleon*, *Aratus*, *Harmodius*, *Aristogiton*, with other such like honorable princes bearing the titles of chastisers and correctors of Tyrants. And for that onely cause *Temir-Cutlu*, whom our writers commonly call *Tamerlan* emperour of the Tarrars, denounced warre vnto *Baiazet* king of the Turkes, who then besieged Constantinople; saying that he was come to chastice his tiranic, and to deliuer the afflicted people; whom indeed he in a set battell vanquished in the plaines neare vnto *Mount Stella*: and hauing slaine and put to flight three hundred thousand Turkes, kept the tyrant (taken prisoner) in chaines in an yron Cage vntill he dyed. Neither in this case is it materiall whether such a vertuous prince being a straunger proceed against a Tyrant by open force, or finenes, or else by way of iustice. True it is that a valiant and worthy prince hauing the tyrant in his power, shall gaine more honour by bringing him vnto his triall, to chastice him as a murtherer, a manqueller, and a robber: rather then to vse the law of armes against him. Wherefore let vs resolue vpon that, that it is lawfull for any straunger to kill a Tyrant; that is to say a man of all men infamed, and notorious for the oppression, murder, and slaughter of his subiects and people. But as for subiects to do the same, it is to be knowne whether the prince that beareth rule be an absolute soueraigne; or not: for if he be no absolute soueraigne, then must the Soueraigntie of necessity be either in the people, or in the nobilitie: in which case there is no doubt, but that it is lawfull to proceed against a Tyrant by way of iustice, if so men may preuaile against him: or else by way of fact, and open force, if they may not otherwise haue reason. As the Senat did in the first case against *Nero*: and in the other against *Maximus*: for that the Roman Emperours were at the first nothing else but princes of the Common weal, that is to say the chiefe and principall men, the soueraigntie neuerthelesse still resting in the People and the Senat: as I haue before showed, that this Commonweal was then to haue bene called a principalitie: although that *Seneca* speaking in the person of *Nero* his scholler sayeth: *I am the onely man amongst lining men, elect and chosen to be the Lieutenant of God on earth: I am the Arbitrator of life and death: I am able at my pleasure to dispose of the state and qualitie of euery man*. True it is that he tooke vpon him this soueraigne authoritie by force wrested from the Senat and people of Rome: but in right he had it not, the state being but a verie principalitie, wherein the people had the soueraigntie. As is also that of the Venetians, who condemned to death their Duke *Falier*, and also executed many others, without forme or fashion of any lawfull processe: forasmuch as Venice is an Aristocraticall principalitie, wherein the Duke is but the first or chiefe man, soueraigntie still remayning in the state of the Venetian Gentlemen. As is likewise the Germain Empire, which is also nothing else but an Aristocraticall principalitie, wherein the Emperour is head and chiefe, the power and maiestie of the Empire belonging vnto the States thereof: who thrust out of the gouernment *Adolphus* the emperour in the yeare 1296: and also after him *Wenceslaus* in the yeare 1400, and that by way of iustice, as hauing iurisdiction and power ouer them. So also might we say of the state of the Lacedemonians, which was a pure Aristocratie, wherein were two kings, without any soueraigntie at all, being indeed nothing but Captaines and Generals for the managing of their warres: and for that cause were by the other magistrats of the state, sometime for their faults condemned to pay their fine; as was king *Agessilaus*: and sometime to death also as were *Agis* and *Pausanias*. Which hath also in our time hapned vnto the kings of Denmarke and Sweden, whereof some haue bene banished, and the others died in

prison : for that the nobilitie pretendeth them to be nothing but princes , and not Soueraignes , as we haue before showed : so also are they subiects vnto those states which haue the right of their election. And such were in auncient times the kings of the cities of the Gauls , whom *Cesar* for this cause oftentimes calleth *Regulos* , that is to say little kings : being themselves subiects , and iusticiable vnto the Nobilitie , who had all the soueraigntie : causing them euen to be put to death , if they had so deserved . And that is it for which *Amphiorix* the captaine generall , whom they called the king of the Liegeois said ; *Our commaundes* (saith he) *are such , as that the people hath no lesse power ouer vs , then we ouer the people* : wherein he showed euidently that he was no soueraigne prince : howbeit that it was not possible for him to haue equall power with the people , as we haue before showed . Wherefore these sorts of princes , hauing no soueraigntie , if they polluted with wickednes and villanie , cannot be chastised by the authoritie and seueritie of the magistrat , but shall abuse their wealth and power vnto the hurt and destruction of good men ; it alwayes hath and shall be lawfull not for strangers onely , but euen for the subiects themselves also , to take them out of the way.

That it is not lawfull for the subiects either by the way of fact , or iustice to attempt any thing against the honour , life , or dignitie of their soueraigne prince , be he neuer so euill or wicked.

But if the prince be an absolute Soueraigne , as are the true Monarques of Fraunce , of Spain , of England , Scotland , Turkie , Moschouie , Tartarie , Persia , Æthiopia , India , and of almost all the kingdomes of Affricke , and Asia , where the kings themselves haue the soueraigntie without all doubt or question ; not diuided with their subiects : in this case it is not lawfull for any one of the subiects in particular , or all of them in generall , to attempt any thing either by way of fact , or of iustice against the honour , life , or dignitie of the soueraigne : albeit that he had committed all the wickednes , impietie , and crueltie that could be spoken ; For as to proceed against him by way of justice , the subiect hath no such iurisdiction ouer his Soueraigne prince : of whom dependeth all power and authoritie to commaund : and who may not onely reuoke all the power of his Magistrats ; but euen in whose presence the power of all Magistrats , Corporations , Colleges , Estates , and Communities cease , as we haue said , and shall yet more fully in due place say . Now if it be not lawfull for the subiect by way of justice to proceed against his prince ; the vassall against his lord ; nor the slaue against his master ; and in breife , if it be not lawfull , by way and course of iustice to proceed against a king , how should it then be lawfull to proceed against him by way of fact , or force . For question is not here , what men are able to doe by strength and force , but what they ought of right to do : as not whether the subiects haue power and strength , but whether they haue lawfull power to condemne their soueraigne prince . Now the subiect is not onely guiltie of treason in the highest degree , who hath slaine his soueraigne prince , but euen he also which hath attempted the same ; who hath giuen counsell or consent thereunto ; yea if he haue concealed the same , or but so much as thought it : which fact the lawes haue in such detestation , as that when a man guiltie of any offence or crime , dieth before he be thereof condemned , he is deemed to haue died in whole and perfect state , except he haue conspired against the life and dignitie of his soueraigne prince : this onely thing they haue thought to bee such , as that for which hee may worthily seeme to haue bene now already iudged and condemned ; yea euen before he was thereof accused . And albeit that the lawes inflict no punishment vpon the euill thoughts of men ; but on those onely which by word or deed breake out into some enormitie : yet if any man shall so much as conceit a thought for the violating of the person of his soueraigne prince , although he haue attempted nothing , they haue yet iudged this same thought worthie of death , notwithstanding what repentance soeuer he haue had thereof . As in prooofe it fell out with a gentleman of Normandie , who confessed himselfe vnto a Franciscan Frier , to haue had a purpose in himself to haue slaine *Francis* the first ,

Treason but thought of punished with death

A first, the French king: of which euill purpose and intent he repenting himselfe, receiued of the frier absolution, who yet afterward told the king thereof; who sending for the gentleman, and he confessing the fact, turned him ouer to the parliament of Paris for his triall, where he was by the decree of that high court condemned to death, and so afterwards executed. Which wee cannot say, that the judges did for feare; seeing that they had oftentimes refused to ratifie the edicts and letters patents by that gracious king granted, notwithstanding whatsoeuer commaundement hee did giue for them to confirme the same. And so in Paris, although a foolish man and altogether out of his wit, called *Caboché*, drew his sword vpon *Henrie* the second, *Francis* his son, as with a purpose to haue slaine him; but without effect or hurt done, yet was he neuertheless condemned, and so put to death, without any regard had vnto his lunessie or frensie; although the lawes euerie where excuse the madde and lunitike man, from all punishment, what murder or villanie soeuer he doe; seeing that hee is more than enough tormented with the frantike furious passion it selfe. And least any man should thinke themselves to haue bene the authors of these lawes and decrees, so the more straitly to provide for their owne safetie and honour, let vs see the lawes and examples of holy Scripture. *Nabugodonosor* king of *Afsyria*, with fire and sword destroyed all the countrey of *Palestine*, besieged the citie of *Hierusalem*, tooke it, robbed and rased it downe to the ground, burnt the temple, and defiled the sanctuarie of God, slew the king, with the greatest part of the people, carrying away the rest that remained into captiuitie into *Babilon*; and yet not so contented, caused * the image of himselfe made in gold, to be set vp in publike place, commaunding all men without exception to adore and worship the same, vpon paine of being burnt aliue: and caused them that refused so to doe, to be cast into a burning furnace: and yet for all that the holy * Prophets directing their letters vnto their brethren the Iewes, then in captiuitie at *Babilon*, will them to pray vnto God, for the good and happie life of *Nabuchodonosor* and his children, and that they might so long rule and raigne ouer them as the heauens should endure. Yea euen God himselfe doubted not to call *Nabuchodonosor* his seruant; saying, That he would make him the most mightie prince of the world. And yet was there euer a more detestable tyrant than he? who not contented to be himselfe worshipped, but caused his image to be also adored, and that vpon paine of being burnt quick. And yet for all that we see the prophet *Ezechiel*, inspired with the spirit of God, angrie with *Sedechia* king of *Hierusalem*, greatly to detest his perfidious dealing, disloyaltie, and rebellion against king *Nabuchodonosor*, whose vassall hee was, and as it were reioyceth him to haue bene most iustly slaine. We haue also another more rare example of *Saul*, who possessed with an euill spirit, caused the priests of the lord to be without iust cause slaine, for that one of them had receiued *Dauid* flying from him, and did oftentimes what in his power was, to kill, or cause to haue bene killed the same *Dauid*, a most innocent prince, by whome he had got so manie victories ouer his enemies: at which time he fell twice himselfe into *Dauid* his hands; who blamed of his most valiant souldiers (ouer whom he then commaunded) for that he would not suffer his so mortal an enemy then in his power, to be slaine, being in most assured hope to haue enioyed the kingdome after his death, he detested their counsell, saying, God forbid that I should suffer the person of a king, the Lords annointed to be violated. Yea moreouer hee himselfe defended the same king persecuting of him, when as hee commaunded the souldiers of his guard overcome by wine and sleepe to be wakened. And at such time as *Saul* was slaine, and that a souldiour thinking to do *Dauid* a pleasure, presented him with *Saul* his head: *Dauid* forthwith caused the same souldier to be slaine, which had brought him the head, saying, Go thou wicked, how durst thou lay thine impure hands vpon the Lords annointed?

That soueraigne
princes whatsoe-
uer ought to bee
vnto their sub-
jects sacred and
inuiolat.

Dan. cap. 5.

Barn. 1. Hier. 29

Hier. 25. Exe. 25

red? thou shalt surely die therefore: and afterwards without all dissimulation mourned himselfe for the dead king. All which is worth our good consideration. For *David* was by *Saul* persecuted to death, and yet wanted not power to haue reuenged himselfe, being become stronger than the king by the aid of his enemies, vnto whome hee fled euen against his will: besides that he was the chosen of God, and annointed by the hands of *Samuel*, to be king of the people, and had also married the kings daughter: and yet for all that he abhorred to take vpon him the title of a king, and much more to attempt any thing against the life or honour of *Saul*, or to rebell against him, but choise rather to banish himselfe out of the realme, than in any sort to seeke the kings destruction. So we also read, that the most holy and best learned men that euer were amongst the Iewes, whome they called the *Effei* (that is to say, the true executors of the law of God) held, that soueraigne princes whatsoeuer they were, ought to bee vnto their subiects inuiolable, as persons sacred, and sent vnto them from God. And wee doubt not, but that *David* a king and prophet, led by the spirit of God, had alwaies before his eyes the law of God, which saith, *Thou shalt not speake euill of thy prince, nor detract the Magistrat*. Neither is there any thing more common in all the holy Scripture, than the forbidding not onely to kill or attempt the life or honout of a prince, but euen for the verie magistrats also, although (saith the Scripture) they be wicked and naught. If therefore he be guiltie of treason against God and man, which doth but detract the magistracie; what punishment then can be sufficient for him that shall attempt his life? For the law of God is in this case yet more precise than are the lawes of men: For the law **H** *Iulia* holdeth but him guiltie of treason, which shall giue counsell to kill the magistrat, whereas the law of God expressely forbiddeth in any sort to speake of the magistrat euil, or in any wise to detract him. Wherefore to aunswere vnto the vaine and friuolous obiections & arguments of them which maintain the contrarie, were but idly to abuse both our time and learning. But as he which doubteth whether there bee a God or not, is not with arguments to be refuted, but with seuer punishments to bee chastised: so are they also which call into question a thing so cleere, and that by bookes publicly imprinted; that the subiects may take vp armes against their prince beeing a Tyrant, and take him out of the way howsoeuer: howbeit that the most learned diuines, and of best vnderstanding, are cleere of opinion, that it is not lawfull for a man not only to kill his soueraigne prince, but euen to rebell against him, without an especiall and vndoubtfull commaundement from God; as we read of *Iehu*, who was chosen of God, and by the prophet annointed king of Israel, with expresse commandement vtterly to root out all the house of king *Achab*. He before as a subiect had right patiently borne all his wickednesse and outrages. Yea the most cruell murthers and torturing of the most holy prophets, and religious men, the vnworthy murthers, banishments, and proscriptions of the subiects; as also the most detestable witchcraft of queene *Iefabel*: yet for all that durst he attempt nothing against his soueraigne prince, vntill he had expresse commaundement from God, by the mouth of his prophet, whome God indeed so assisted, as that with a small power he slew two kings, caused seuentie of king *Achab* his children to be put to death, with many other princes of the kings of Israel and of Iuda, and all the idolatrous priests of *Bahal*, that is to say of the Sunne, after that hee had caused *Iefabel* the queene, to be cast headlong downe from an high tower, and lest her bodie to be torne in peeces and eaten vp of dogges. But we are not to apply this especiall commaundement of God, vnto the conspiracies and rebellions of mutinous subiects against their soueraigne princes. And as for that which *Caluin* saith, if there were at this time magistrats appointed for the defence of the people, and to restraine the insolencie of kings, as were the Ephori in Lacedemonia, the Tribunes in Rome, and the

A the Demarches in Athens, that they ought to resist and impeach their licentiousnesse and crueltie: he sheweth sufficiently, that it was neuer lawfull in a right Monarchie, to assault the prince, neither to attempt the life or honour of their soueraigne king: for he speaketh not but of the popular and Aristocratique states of Commonweales. And we haue before shewed, that the kings of Lacedemonia were no more but plaine Senators and captaines: and when he speaketh of states, he saith, Possibly, not daring to assure any thing. Howbeit that there is a notable difference betwixt the attempting of the honour of his prince, and the withstanding of his tyranny; betwixt killing his king, and the opposing of ones selfe against his crueltie. We read also, that the Protestant princes of Germanie, before they entred into armes against *Charles* the emperor, demaunded of *Martin Luther* if it were lawfull for them so to doe or not; who frankly told them, That it was not lawfull, whatsoeuer tyrannie or impietie were pretended; yet was he not therein of them beleeued: so thereof ensued a deadly and most lamentable warre, the end whereof was most miserable, drawing with it the ruine and destruction of many great and noble houses of Germanie, with exceeding slaughter of the subiects: whereas *No cause* (as saith *Cicero*) *can be thought iust or sufficient for vs to take vp armes against our countrey*. And yet it is most certaine, that the soueraigntie of the empire resteth not in the person of the emperour (as we will in due place declare) but being chiefe of the state, they could not lawfully take vp armes against him, but by a generall consent of the state, or of the greater part of them, which was not done: then much lesse is it lawfull to take vp armes against a soueraigne prince. I cannot vse a better example, than of the dutie of a sonne towards his father: the law of God saith, That he which speaketh euill of his father or mother, shall be put to death. Now if the father shall be a theefe, a murderer, a traytor to his countrey, as an incestuous person, a manqueller, a blasphemer, an atheist, or what so you will else; I confesse that all the punishments that can bee deuised are not sufficient to punish him: yet I say, it is not for the sonne to put his hand thereunto, *Quia nulla tanta impietas, nullum tantum scelus est, quod sit parricidio vindicandum*. For that (as saith an auntient Orator) no impietie can be so great, no offence so hainous, as to be reuenged with the killing of ones father. And yet *Cicero* reasoning vpon the same question, saith, our country to bee deerer vnto vs than our parents. Wherefore the prince whom you may iustly call the father of the country ought to be vnto euery man dearer & more reuerend than any father; as one ordained & sent vnto vs by God. I say therefore that the subiect is neuer to be suffered to attempt any thing against his soueraigne prince, how naughty & cruel soeuer he be: lawfull it is, not to obey him in things contrarie vnto the laws of God & nature: to flie and hide our selues from him; but yet to suffer stripes, yea and death also rather than to attempt any thing against his life or honour. O how many Tirants should there be; if it should be lawfull for subiects to kill Tirants? how many good and innocent princes should as Tirants perish, by the conspiracie of their subiects against them? He that should of his subiects exact subsidies, should be then (as the vulgar people accompt him) a Tirant: he that should rule and commaund contrarie to the good liking of the people, should be a Tirant: (as *Aristotle* in his Politiques sayeth him to be) he that should keepe strong gardes and garrisons for the safetie of his person, should be a Tirant: he that should put to death traitors and conspirators against his state should be also counted a Tirant. And indeed how should good princes be assured of their liues, if vnder the colour of tyrannie they might bee slaine of their subiects, by whom they ought to be defended? Not for that I would say it not to be lawfull for other Princes by force of armes to prosecute tiranie (as I haue before said) but for that it is not lawfull for subiects so to doe. Howbeit that I am rather of *Diogenes* the Cinique his opinion, who

The wars of the
Germane princes
against
Charles the fifth
in Germanie in
Luthers iudg-
ment not lawfull,
Sledan, lib. 4.

What great in-
conueniencies
should ensue if it
were lawfull for
subiects vnder
the colour of ty-
rants to kil their
soueraigne princes

who one day meeting with *Dionysus* the yonger, then living in exile at Corinth, and seeing him merily sporting himselfe in the streets with iesters and minstrels; verie soberlie said vnto him, Truly thou art now in an estate vnworthie of thee. I hartilie thank thee (said *Dionysus*) for hauing compasfion on me. And thinkest thou said *Dionysus* that I thus say for any compasfion I haue of thee? mistake me not, for I speake it rather in despite of the life thou now ledest, to see such a vile slaue as thee, worthy to grow old, and die in the accursed state of tirannie, as did thy father, thus to sport thy selfe in securitie, and quietly to passe thy time among vs. For can any hangman more cruelly torment a man condemned to torture, than feare? Feare I say of death, of infamie, and of torture: these bee the reuenging furies which continually vex Tirants, and with eternall terrours torment them both night and day: Then enuie, suspition, G feare, desire of reuenge, with a thousand contrarie pafsions at variance among themselves, do so disquiet their minds, and more cruelly tiranize ouer them, than they themselves can ouer their slaues, with all the torments they can deuise. And what greater wretchednesse can happen vnto a man, than that which presseth and forceth the tirant? to haue a desire to make his subiects beasts and fooles, by cutting from them all the waies to vertue and learning? To bee a slaue and subiect vnto a thousand spies and pryers into other mens liues? to heare, see, and vnderstand; what is done, said, or thought of all and euery man? and in stead of ioyning and vniting of his subiects in loue and amitie together; to sow amongst them a thousand quartels and dissentions: to the end they should alwaies be at defiance among themselves, and in distrust one of H an other? And who can doubt but that a Tirant still languishing in such torment, is of all men most miserable, and more afflicted and tormented, than if he should die a thousand deaths? Death (as sayeth *Theophrastus*) is the end of all miseries; and the repose of the vnfortunate, as sayeth *Cesar*: neither the one nor the other being in that point superstitious, as not perswaded of the immortalitie of the soule, or that it longer liued than the bodie, or that there remayned any farther paines for the wicked after this life: so that to wish a Tirant slaine as a punishment for his deserts, is but to wish his good and rest.

The miserable
state and condi-
tion of a Tyrant
whilst he liueth.

The policie of
some Tyrants to
auert from them-
selves the peo-
ples rage.

But most Tirants haue ordinarilie neare vnto their owne persons certeine Mynnions, of whom they make great account and reckning: whom they vse as sponges to suck vp their subiects blood, vpon whom when occasion serueth, they discharge themselves; to the end that the people entering into furie, should seise vpon them, and spare themselves: So had *Tiberius*, *Seian*; *Nero*, *Tigillin*; *Dionysus* the younger, *Phyliste*; and of late *Henry* king of Sweden, *George Preschon*, whom we read to haue beene giuen as a prey vnto the furious people, and by them to haue beene rent and torne in peeces. So the Emperour *Anthionius Caracalla* to please the people, put to death all the flatterers who had before induced him to kill his brother. Neither did *Caligula* in better sort intreat his claw-backs. And by these sleights haue Tyrants oftentimes wel escaped the rage and furie of the people. But if the conspiratours began their furie at K the person of the Tyrant himselfe, then were not onely his friends and fauourites, but euen his wiues, children, and neereft kinsmen, most cruelly slaine. Which they did not onely all Greece ouer, but in Sicilie also: as after the death of *Hiero* the Tyrant, ensued the slaughter of all his friends and kinsfolks, the rage of the people with vnspcakable crueltie bursting out, euen to the dismembriing of his sisters and colens: his statues were cast downe, all his edicts reuoked, not only those which were vniust and vnreasonable, but euen those also which were right commendable and necessarie; to the intent that no memoriall of Tyrants might remaine: yet true it is, that oftentimes their good decrees were still kept. And that is it for which *Cicero* said, That there was no-
thing

A thing more common, than to approue the acts of a Tyrant, and yet to place in heaven them that had slaine them. And yet he in another faith it be a doubt, not yet resolved vpon, *viz.* whether a good man ought to come vnto the counsell of a Tyrant consulting euen of good and profitable matters? And yet this question dependeth of the other: for if a man make conscience to be assistant vnto a Tyrant, consulting of good things, for feare least in so doing he should seeme to approue his tyrannie: wherefore should he then approue the good lawes and decrees by him made? for that is also no lesse to ratifie his tyranny, and to giue example to others, as well as to giue counsell vnto a Tyrant, in good and commendable things. Except one should say, that tyrannie which yet is in the force and strength of it selfe, is shored and countenanced by the

B counsell of good and honest men, vnder the couert of some one or other good and commendable act, which would otherwise of it selfe fall, by the onely euill opinion conceiued of tyrannie; whereas he which is alreadie dead, cannot be againe reuiued to ratifie his other euill acts. Yea it oftentimes falleth out, that not onely the good & profitable acts of Tyrants, but euen their euill and vniust acts and orders are of necessitie to be retained also, if we will haue the Commonwealth in safetie to stand. Wherefore *Thrasibulus* after he had put to flight the thirtie Tyrants of Athens: and *Aratus* hauing slaine *Nicholas* the Tyrant of Sicyone: and to the imitation of them *Cicero* after the death of *Cesar* the dictator, perswaded the publication of the lawes of forgetfulness, to extinguish the desire of reuenge: yet for the most part ratifying the acts of those

C Tyrants, which they could not vtterly disanull, without the ruine of the whole Commonwealth. As for that we read the acts of *Nero* and *Demetrian*, to haue bene reuoked, and disanulled by the Senat, that concerneth certaine perpetuall edicts of theirs, which for that they had a perpetuall inconuenience annexed vnto them, would if they had not bene abrogated, haue in time vtterly ruined all that was now againe set in order: as for their good & comendable lawes, they were not at all altred. For what time was more glorious than *Nero* his first fife yeares raigne? what more fit or better for the well ordering of a Commonwealth? Insomuch that *Traian* himselfe a most excellent prince, deemed no man to haue bene like vnto *Nero*, for the well gouerning of a Commonwealth. Vnto this the opinions of the lawyers agree, who hold the successours of Tyrants to be bound vnto all such things as the Tyrants their predecessours

D haue iustly promised or done, but not vnto the rest. So the emperour *Constantine* the Great, by a law abrogated such things, as *Licinius* the Tyrant had before vniustly decreed, but confirmed the rest. The like we read to haue bene done by *Theodosius* the younger, and *Arcadius* the emperours, after the death of the Tyrant *Maximus*, by this law, *Quæ Tyrannus contra ius rescripsit non valere præcipimus: legitimis eius rescriptis non impugnandis*, What the Tyrant hath against right decreed, we commaund to be of none effect; not impugning his lawfull decrees. And albeit that these two yong emperours, to be reuenged of the Tyrant *Maximus*, had by a generall edict reuoked all the prodigall gifts and preferments, which he laushly had bestowed vpon wicked men, and of no desert in the Commonwealth: and also disanulled his iudgements and decrees: yet would they not repeale any thing that had bene by him decreed or graunted, without fraud and deceit, and the hurt of the Commonwealth. Those last wordes without fraud and deceit, which we read in *Theodosius*, his law, are added against Tyrants Agents, & Brokers, who are especially to be laid hold vpon, to the end that others take not example by them, to build their houses, or enrich themselues by the ruine or hurt of others, during the time that tyranie beareth sway; or that the Commonwealth is with ciuill warres diuided. As it happened in the state of Milan, rent in sunder by the Venetians, the French, the Swissers, and the Spaniards, euerie one of them taking

That not only the good acts and decrees of Tyrants, but euen their euill acts and decrees also are oftentimes of necessitie after their death to be retained in a commonweale.

The successours of Tyrants how farre they are bound to that which the Tyrants their predecessours haue promised.

vnto

Naturall equitie
in all cases can-
not in any lawe
be comprised, but
is oft times to be
left vnto the reli-
gious arbitremēt
of men expert in
matters of state.

vnto themselues so much thereof, as they could by force and strength, as if it had bene by good right, and the *Sforces* the rest: where amongst others it fortun'd *Iason* the famous lawyer, a fauourit of the Spaniards, by fraudulent meanes to obtaine the goods of *Triuultius*, a worthie captaine of the French part: but the Spaniards afterwards driuen out, and the French returned, *Iason* was right well beaten with his owne lawes and decisions, being by the captaine *Triuultius* againe thrust out of his vniust possession, and that by his owne doctrine. In which case yet the force of lawes and decrees ought not to be of so great force and power, as naturall and vpright equitie it selfe, which cannot be fully comprised in any lawes, but is to be left vnto the religious arbitrement of them who know how to mannage the affaires of state, and wisely to ballance the particular profit, with the counterpoise of the publike, according to the infinit varietie of times, places, and persons; alwaies remembring the profit of euery man in particular, and of all together in generall, not to be one and the same: and that the publike is alwaies to be preferred before the priuat, except the priuat be grounded vpon the greatest equitie and reason. As if the Receiuers in the heat of the ciuill warres, or in the raigne of a Tyrant, or in such time as lawfull enemies make inuasion, shall be enforced to pay the publike money: it is good reason it should be allowed them, as paid vnto the Commonwealth. For so it was iudged by decree of the parliament of Naples, for them that had paid vnto the receiuers of *Charles* the eight, when as after the returne of the Spaniards, they would haue enforced the receiuers to haue paid the money twice, naturall reason (in this case) preferring the priuat profit before the publike. For the recei- uers could not otherwise doe, the Frenchmen then fully possessed of the kingdom of Naples. But if the Receiuers or debtors of the Commonweale, shall without any summons or constraint, or for some colourable suit, pay vnto the enemy, or a Tyrant, part of that which is due, to accept in stead of the whole, they shall yet still remaine not onely debtors for the whole, but be in daunger also of treason. Wherefore to conclude this question, It is not meet that the good decrees or laws of a flaine tyrant should be repealed or disanulled.

Murthers euen of
euill and tyrannicall
princes,
not to be reward-
ed, but severely
punished.

And in this, the princes much deceiue themselues, which ouerthrow and make void all the acts of Tyrants, their predecessours; and namely they which giue reward to them that haue flaine Tyrants, to make them a way vnto the soueraignie. For they shall neuer assure themselues of their owne liues, if they severely punish not the conspiratours against their owne prince and murtherers of him, although hee were neuer so great a Tyrant. As most wisely did *Seuerus* the emperor, who put to death all them which had any part in the murther of the emperor *Pertinax*: which was the cause (as saith *Herodian*) that there was no man which durst attempt his life. So also *Vitellius* the emperor put to death all the murtherers and conspirators against *Galba*, who had presented requests signed with their owne hands vnto the emperor *Otho*, to haue had of him reward for their disloialtie. And *Theophilus* emperor of Constantinople caused them all to be called together, who had made his father emperor, after they had flaine *Leo* the Armenian, as if he would haue well recompensed them for so great a good turne: who being come together with many other, who though not partakers of the murther, were yet desirous to be partakers of the reward; hee caused them altogether to be flaine. And that more is, the emperor *Domitian* put to death *Epaphroditus*, *Nero* his manumised seruant, and secretarie to the state, for hauing holpen *Nero* to kill himselfe, who most instantly requested him so to doe, being thereby deliuered from the executioners hands, and cruell exemplarie death. And these things wee read not onely Tyrants, but euen good kings also to haue done, not so much in regard of their owne safetie, as of the dignitie of them that were flaine. As *David* did vnto him who

A who in hope of reward brought him his father in lawes head cut off, but slaine by his enemies. And *Alexander* the Great caused cruelly to bee put to death him that had murdered king *Darius*, abhorring the subiect which durst to lay hand vpon his king: although *Alexander* himselfe by lawfull warre sought after his life and state, as beeing his lawfull enemy. And yet in mine opinion the thing that hath most preserved the kings of Fraunce and their persons inuiolated, is for that they haue not vsed crueltie towards them which were neere vnto them in blood, albeit that they were attainted, convicted, yea and condemned as enemies to their prince, and guiltie of treason. As *John* the second, duke of Alencon, although he was twice for the same cause condemned, as for that he had with the enemies conspired against king *Charles* the seventh and the Commonweale, and the sentence of death pronounced against him by the Chancelour, yet for all that would not the king, that he should bee executed. Many haue blamed this the kings too much clemencie, as daungerous: but they see not, that kings in so doing, do not so much deliuer their kinsmen from punishment, as themselves; neither so much to prouide for other mens safetie, as for their own; nor that in forbidding the blood of their kinsmen to be shed, they spare their owne; nor that hee which putteth a prince of his owne blood into the executioners hands, or causeth him to be murdered, forgeth a knife to cut his owne throat. For wee haue seene the emperours of Constantinople both of auntient and latter time, and many kings of Spaine and England, who fouling their hands in the blood of their princes, suffered themselves afterward in their persons that which they had done to others. For not to speake of those things which are reported to haue of late bene done in the house of Castile: one king in that nation cruelly murdered six of his brethren: and in lesse than thirtie six yeares fourescore princes of royall blood, were (as *Philip Comines* in his Commentaries reporteth) in England either slaine or executed by the bloudie executioners hands. Now the greatest safetie of a soueraigne prince, is to haue their subiects perswaded, that they ought to be holy and inuiolat; although it much concerne the Commonweale also, the kings stocke to be most sacred, least the princes of the blood being taken out of the way, the Commonweale fall also; or else troubled with endlesse sedition, bee rent in peeces, as we shall in due place declare. I know well that some haue blamed *Seleucus*, for not hauing put to death *Demetrius*, surnamed the Besieger, one of the most valiant princes that euer was; but hauing onely kept him in prison: And *Hugh Capet*, for hauing kept in prison in the castle at Orleans, *Charles* the last of the blood of king *Charlesmaigne*: And *Henrie* the first, king of England, for hauing kept in prison vntill his death, his elder brother *Robert*, hauing before caused his eyes to bee put out: As also *Christiern* father to *Frederike* king of Denmarke, for hauing kept his cosen the king of Denmarke thrust out of his kingdome, siue and twentie yeares prisoner, who as a priuat man there died in prison, in the castle of Calembourg, being 77 yeares old: And *John* king of Sweden, who keepeth his elder brother *Henrie* (reiectd by the people) prisoner euer since the yeare 1567, least he should trouble both him and the Commonweale. But they haue bene, and yet are by this meanes more reuerenced and honoured of their subiects, than if they had put these their so honourable prisoners to death.

Lénitie of soueraign princes towards them of their owne blood offending them, and so in their daunger, or otherwise their honorable prisoners: vnto themselves both commendable and profitable

But here some men will obiekt, The keeping of such princes prisoners, to be a thing full of perill and daunger: which I confesse, and was the onely reason that moued the pope to counsell *Charles* of Fraunce, to put to death *Conradin* his prisoner, the sonne of *Manfroy* king of Naples. As with like crueltie had *Ptolomie*, last king of Ægypte caused *Pompey* the Great, after his flight vnto him from the battaile of Pharsalia, to be slaine; his counsellors saying vnto him, *That dead men bit not*. And yet neuerthelesse

The keeping of great princes prisoners, daungerous

neither could this *Ptolomee* escape destruction: neither wanted there heires enow of the house of Aragon, who ceased not to driue out them of the house of Aniou, and to recouer againe the kingdome: and albeit that he which put him to death, beeing himselfe afterward also condemned to die, escaped: yet so it was, that the infamie of so detestable a murder, without cause committed vpon the person of a young innocent prince, hath yet rested vpon them which did the execution to their owne destruction. And truely our auncestours seeing *John* duke of Burgundie, rashly in the verie time of iudgement, confessing the murder of *Lewes* his kinsman, duke of Orleans; and yet to haue easily escaped the daunger, said, That surely from thence foreward a man might haue the blood of princes good cheape, and in so saying said well. For the same *John* comming afterward vnder safe conduct, was himself likewise serued, and in cold blood slaine; they that were the authors of his death escaping vnpunished.

CHAP. VI.

¶ Of an Aristocratie.

What an Aristocratie is.



Thre sorts of Aristocraties.

Impossible to establish an Aristocratie only of good men.

AN Aristocratie is a forme of Commonweale, wherein the lesse part of the citisens with soueraigne power commaundeth ouer all the rest; and euerie citisen in particular. And in that it is contrarie vnto the estate Popular, for that in the Aristocraticall state the lesser part of the citisens command, and in the Popular state the greater: and yet in that they both agree, that they which haue the soueraignty, haue power to commaund ouer euery one in particular; but not ouer all in generall. Wherefore a Monarchie is in that better and more honourable than the other two; for that in it the power of one extendeth it selfe ouer all in generall, and in particular also: a thing in mine opinion well worthy the noting. And like as a Monarchie is either Royall, Lordlike, or Tyrannicall: so also an Aristocratie may be Lordly, lawfull, or factious; which in auncient time they called an Oligarchie; that is to say, a Seignorie of a verie small number of Lords. As were the thirtie lords of Athens, ouerthrowne by *Thrasibulus*, whom they called the thirtie Tyrants. Or the ten commissioners, commonly called the Decemviri, appointed to reforme the lawes and customes of Rome: and long after the Triumviri, who by force oppressing the libertie of the people, inuaded the soueraignty. And that is it for which the auncients haue alwaies taken this word Oligarchie, in the euill part, and Aristocratie in the good; defining it to be *A government of good men*. But we haue before declared, that in matters of state (to vnderstand of what sortme euerie Commonweale is) we must not haue regard whether the gouernours thereof bee vertuous, or otherwise; but to the government thereof. It is also a difficult matter, and almost impossible, to establish an Aristocratie composed onely of good men; for that cannot bee done by lot, neither by election, the two vsuall meanes: wherunto we may ioine the third, by lot and election together, as impossible as the other; vertue with fortune hauing no agreement. Neither is lot and fortune to be admitted vnto the consultations of honest causes: and if the same should be committed vnto the choyce of the promiscuous and vulgar people, they would not make choyce of men altogether vnlike themselves; that is of fools, of wicked and most impudent men, good and wise men (if there be any) euerie where being the least part of the people: and what more shamefull thing could there be, than the honour and reputation of wise men, to depend of the iudgement (should I say, or of the rashnesse) of the head-strong people. Yet let vs grant some few good and wise men to bee in the citie, truely they will shun euen the verie sight of the wicked,

A wicked and of the bedlem multitude: neither if they come vnto their common assemblies, be so shamelesse and impudent, as to name and make their choice of themselves as of wise men. For so *Lactantius Firmianus* meereley iesteth at the seuen Sages of Greece: If they were but wise (saith he) in their owne iudgements, then were they not wise: but in the iudgement of others, much lesse, who were not wise in iudging no mo wise but seuen, and all the rest fooles.

But some may say it should do well herein to imitate the auncient Romans, and other Latins, in the choice that they by solemne oath made of the most valiant and warlike man of all other for their Generall: who so chosen, should make choice of a second for his Lieutenant most like himselfe: and he likewise of the third: and the third of the fourth; and so in order one valiant man of an other, vntill the number of their Legions were filled. This truly might seeme a good way for the forming of a Commonwealth of good and worthie men, at the first beginning thereof: But who should refine the measure and number of those good men? and who should be suertie vnto the Commonwealth, that euery one of those good men, should still make choice of an other good man like himselfe; rather then of his sonne, his brother, his kinsman, or his friend? and admit it were so done, sith euery where there are so few good men, who should defend them from the multitude, and violence of them that were left, as fooles and wicked men? But admit that a Commonwealth may at the first be made of such a select number of good men; how long shall we think it can so stand? And that is it for which there neither is, nor euer was any pure Aristocratie; wherein the most vertuous onely had the soueraigntie. For albeit that the Pythagorians hauing drawne vnto their line the most noble and honorable princes of Italie: in the time of king *Seruius Tullius* had chaunged certeine Tyrants, into iust Regalities, and were in hope also by little and little to haue brought the Oligarchies, and Democracies, into Aristocraties, as in some places they had already done: yet neuerthelesse it so fell out, that the popular men, and ringleaders of the people, seeing all power and authoritie, vnder the colour of vertue, to be taken out of their hands, entered into great conspiracies, and so arming the people against the Pythagoreans, and the desperate rout, against the better sort: (as easie it was for the stronger to oppresse the weaker) burnt them in their diet, and massacred almost all the rest that escaped from the daunger of the fire: which shamefull murder of the Pythagorians raised great sturres in Italie.

Wherefore whether they be of the better sort, or of the worse; of the richer sort, or of the poorer; of the nobler, or of the baser; of the more warlike, or otherwise which hold the soueraigntie, so that it be the lesser part of the citizens or people, we call it by the name of an Aristocratie. This lesser part of citizens or people we need not to define by any certein number: for that the varietie of numbers is infinite, and can by no man be comprehended. As admit there be ten thousand citizens, of whom an hundred haue the soueraigntie; if in their common assemblie three score of them shall be of one opinion for the making of a law: that law shall in generall bind the other fortie which haue part also in the soueraigntie, but are the fewer in number, together with the other nine thousand nine hundred excluded from the gouernment, and the same three score being of one mind together, shall rule the whole ten thousand in particular: Neither yet for all that is the soueraigne right drawne vnto those three score; But as in euery lawfull Colledge and Corporation, the greater part is euery where the better: so it followeth that three score being of one accord, shall ouer rule the other fortie both altogether and a part: except by law concerning soueraigntie it be provided, that two thirds of the citizens agreeing among themselves, should preuaile against the rest; as we see it set downe in almost all the lawes and statutes of Colledges: by which

Wherefoer the lesser part of the people hath the soueraigntie: there is one kind or other of an Aristocratie.

The lesser part of the people in an Aristocratie not to be defined by any certein number.

meanes threescore foure citizens, shall in the aforesaid number of an hundred, be superiour vnto the other thirtie six. Wherefore in an Aristocratie we are not to haue regard how little, or how great the number of the citizens is; provided that they which haue the soueraigntie ouer the rest, be fewer in number than the one half of the whole. For admit there be an hundred thousand citizens in a Commonweale, of whom ten thousand haue the soueraigntie ouer the rest, it shall as well be called an Aristocratie; as if of ten thousand citizens, one thousand onely should hold the estate: considering that both in the one and other Commonweal, the tenth part hath the soueraigntie: so we may say where the hundred, or the thousand part of the citizens beate the sway; and the fewer that they be, the more assured and durable is the state; so that they be not at variance amongst themselves. As the estate of the Pharsalians was the most durable of Grace, and yet it had but twentie Gouvernours. And the Lacedemonian Commonweal, which caried away the prize of honour from all the others of the East: albeit that it was most populous, yet for all that it had in it but thirtie Gouvernours, chosen out of the better sort, to continue in the government so long as they liued. The Epidaurians saith *Plutarche* had but an hundred and foure score of the noblest and welthiest of the citizens which had part in the soueraigntie: out of which number they chose the counsellours of the state. The auntient Commonweale of Marseilles in Prouence (which in the iudgement of *Cicero* was the best ordered Commonweal that euer was in the world) had in it six hundred citizens which held the soueraigntie: out of which number of six hundred were taken the Senators, and fiftene magistrats, and of these fiftene magistrats were three Presidents set ouer them in maner of the Roman Prators. The like we may deeme of the Rhodians and Theban Common-weales, after that their popular estates were chaunged into Aristocracies, the richer sort possessing themselves of the soueraigntie: than which nothing can bee more commodious for the Commonweal, especially if good citizens cannot be had. For which cause *Titus Flaminius* the Consul established the townes and cities of the Thessalians in forme of an Aristocratie, making Senatours and Iudges of the richer sort, and giuing to them the soueraigne power, whom it concerned most, that their Commonweal should continue in rest and peace. Which order *Andrew Doria* seemeth to haue followed in reforming the Commonweal of Genua, by him drawne from the obeysance of the French, in the yeare 1528, at which time he by the consent of the citizens there established an Aristocratie of eight and twentie families, chosen as well out of the base commonaltie, as out of the nobilitie, so that they had six houses within Genua, all whom by a law he made noble, & partakers of the soueraigntie of the state: leaving vnto their discretion, euery yere to chuse vnto them ten other citizens, such as they should think fittest for their vertue, for their nobilitie or riches. Out of these eight and twentie families, he established a Counsell of fower hundred men, euery yeare to be chosen for the government of the state: who also made choice of the Duke, and eight gouvernours for two yeares to continue, whom together they call the Seignorie; for that vnto them it belongeth to manage the waightie affaires of the Common wealth: except some such great matter happen, as may require the aduise of the Senate, which consisting of an hundred persons, is vsually euery yeare chosen by the nobilitie, by secret voices; by lot giuen, as they do in Venice. And euery one of these eight Gouvernours after his office expired, continueth for two yeares Procurour of the Common wealth: and from that time forward, remayneth one of the prinie counsell, together with them which are and haue beene Dukes, who are Procurours of the Common weal so long as they liue. Besides that there are fortie Captaines euery yeare chosen, and an hundred men deputed to euery one of those captaines, which is a legion of foure

The Aristocratical estate of the Pharsalians.

The estate of the Lacedemonians.

The auntient estate of them of Marseilles.

The Aristocraticall estate of Genua framed by Andrew Doria.

A foure thousand men, appointed for the strength and defence of the citie :ouer which legion there is one Colonell, or chiefe Captaine, whom they call the Generall ; who are all chosen by the voices of the nobilitie : As for their iurisdiction or administration of justice, they vse strangers, viz. a Prætor, who is alwaies a stranger ; with two Lieutenants his assistants, the one for the receipt, the other for criminall causes : and fise other Ciuilians, judges for all priuat causes for two yeares, all strangers also ; whom, they call the *Rota*. Yet besides them, there are seauen extraordinarie Iudges chosen out of the Citizens, for the extraordinarie deciding of causes. Besides whom were also fise Syndicques, to receiue informations against the Duke, and the eight Gouvernours, after that their charge was expired, causing proclamation to be openly made, That if any

B man had any complaint against them, for any wrong or iniurie receiued from them, he should come in and be heard : at which time if none complained, they had letters testimoniall giuen them, in witnesse of their vpright dealing in their office. The same yeare that *Doria* established an Aristocratie at Genua, they of Geneva also changed their Pontificall monarchie into a Popular state, gouerned in maner of an Aristocratie. And albeit that the Towne long time before pretended it selfe not to bee subiect vnto the laws either of the Duke of Sauoy or of the Pope, but to be free from them both ; yet the citizens thought it not best for them to attempt any thing, vntill that discord about the Soueraigntie was risen not only betwixt the Duke & the bishop, but euen betwixt the bishop and the people also : at which time they tooke hold vpon the occasion then

C presented vnto their desires for the changing both of their Religion & state. Wherefore their Commonweale now set at libertie, they established a Counsell of two hundred citizens, with soueraigne and perpetuall power ; but that the people still reserued vnto themselues the confirmation of lawes, the election of their Syndicques and other the great magistrats, and the treaties of peace and warre ; all which belong vnto the right of Soueraigntie, as we haue before declared. Now out of this great Counsell of two hundred, they made choice of a perpetuall Senat of threescore persons : and out of that Senat, they take fise and twentie to be of the priuie Counsell for euer, chosen all by the great Counsell, and the foute Syndicques chosen euery yeare for soueraigne Magistrats, beside the other Iudges and magistrats ordinarie. But the difference betwixt this Commonweal and that of Genua is notable, but especially in this,

D that the Genowaies vse euery yeare to change their great Counsell of fower hundred, and Senat of three score, with other their Magistrats, except some few which continue for two yeares. Whereas the great Counsell of Geneva, the Senat, and priuie counsell are once chosen for euer : yet so, as that the censuring of euery one of them euery yere is still reserued vnto the Citizens : which is most straitly looked vnto ; whereby it cometh to passe, that the Commonweal of Geneva is more firme, and lesse subiect vnto alteration or seditious innouation than is that of Genua. Moreouer the choice of the great Counsell, the Senat, and of the priuie Counsell at Geneva is not made all at once, as at Genes and Venice ; but a roome being become void by the death or attainder of a

E counsellour of the priuie Counsell of fise and twentie, they proceed to the choice of another out of the great counsell, to put in his place into the priuie Councell : and after that of a citizen, or at least wise of a Burgeois, to put into the great counsell, a man not any way spotted or defamed : not hauing any regard in the choice of them, vnto their wealth, or nobilitie, but in what they may vnto their vertue and integritie only : a thing (as we read) vsed amongst the Lacedemonians, who after the death of their Senators, made choice of others in respect of their honour and vertue onely.

The Swislers except the Grisons, and the other fise little cantons, haue almost the same forme of a Commonweale ; as we see at Zurich the great Councell of two hun-

The state of the Swislers

dred, the Senat, and the priuie Councell, established after the maner of Geneva: or to say better, that of Geneva after the forme of Zurich; which is almost like vnto that of Berne. Which neuerthelesse differ in this, that with these the great Councell & the Senat chaunge euerie yeare: which they do not at Geneva: for with these the fraternities, which they call *Zunft*, euerie one of them composed of one, two or three occupations: which are eleuen at Schaffouse, twelue at Zurich, fiteene at Basil; and in other places more or lesse, chuse twelue persons of euerie fraternitie, for the great Councell: and for the Senat they chuse two, as at Zurich; or three, as at Basil; of whome one is the chiefe of the fraternitie. So that the great Councell at Zurich, consisteth of two hundredth; of 244 at Basil, of 86 at Schaffuse. And of Senators at Zurich the number is fitie, at Schaffuse twentie sixe, and at Basil sixtie three. But they which are so chosen by the voyces of the fraternitie, are confirmed also by the great Councell, and by the Senators or magistrat, or by the old Senat, as at Basil. For the one halfe of the Senat is that which was before, which had the charge alreadie fixe monethes. And the other moytie of the Senat, is of those which are but newly chosen, to the intent that the Senat should not be wholly chaunged all at once. True it is, that the auntient Senat of Basil, chose alwaies the Senat for the yeare following: and the Burgamasters who had for their companions three Tribunes at Zurich, and two at Basil, who with the Bourgamasters being foure, haue nine other persons, as assistants ioyned vnto them, and so together make the colledge of the thirteene men (as they call it) vnto whome all the manning of the secret affaires of the Commonwealth are committed: and without whose authoritie nothing vsually is propounded vnto the Senat or great Councell to resolue of. There are also at Zurich eight men, which haue charge of the common receit, ouer whome one Bourgomaster is gouernour. And at Zurich and Schaffuse the new Senators determine all causes criminall: whereas in all the other townes the Prouost of the empire, with three Senators in the name of the whole Senat decide the same: which prouost is also chosen of the Senat, and generally none may bee chosen into the Senat which is defamed or base borne. By all which it is manifest, that their estate is gouerned Aristocratically; and yet more at Berne, Lucerne, Friburg, and *Solent*, where the fraternities and companies haue no voyces in the state, neither power or authoritie to meet together, more then for matters concerning their occupations and trades: but euerie yeare foure capitaines or chiefe men of euerie citie, chose out sixteen other citisens, men of greatest integritie, and without all imputation: who three daies before Easter make choice of the great Councell, consisting of an hundred of the better sort of the citisens at Lucerne, and of more than two hundred at Berne: which great Councell afterwards chuseth the Auoyer, which they call *Schuldtheffen*, and the other magistrats. And particularly the Auoyer, with the aforesaid sixteene, and the foure capitaines chose the Senat, which is of xxvj at Berne, and xviij at Lucerne: who haue the power of the state at Berne for a yeare. The foure capitaines are also annuall chosen by the great Councell; by which capitaines and the treasurers, all the judges are elected and confirmed by the Senat: which Senat hath also the deciding of the first appeales. The second appeales are decided by the same Senat of xxvj, and xxvj others whome the Senat shall make choice of. But the last appeale of all is vnto the great Councell, the chiefe whereof is the Auoyer: where if question be of the life, fame, or fortune of any the citisens: it is by the decree there made decided, without further appeale. The same order almost is vsed in the state of Friburg, in making choyce of the great Councell, consisting of two hundred of the better sort of the citisens: by whome afterward is chosen the Senat of twentie foure persons, and the Auoyer with the foure capitaines.

Whereby

A Whereby it is well to be vnderstood those estates of the Swissers to bee Aristocratie, yet popularly tempered: for that the way is open for all the citisens of what degree soeuer vnto all the officers and places of commaund, benefits and charge in the Commonweale, if they be not men infamed, distracted of their wits, or otherwise vnterly ignorant of government. That is also belonging vnto popularitie, that almost all their magistrats are annuall: which temperature of the better or richer sort with the meaner or poorer, in being capable of the honours of the Commonweale, maketh the same much more firme and stable, than if the honours and preferments were communicated but vnto the Senators or richer sort onely; with whome the vulgar people is most commonly at oddes; and that so much the more amongst the Swissers, where the nobilitie (except some few) long sithence destroyed and almost rooted out, the people tooke vpon them the soueraigntie: which by little and little falling againe vnto the nobilitie (excepting in the five mountaine cities) haue with a popular moderation tempered their states with better lawes and orders than the rest. For commonly the Aristocratice state admitteth none but the Senators, the nobilitie, or richer sort, vnto the honours and offices of the state, the rest being quite excluded. Howbeit there haue bene moe Aristocracies, consisting of the more auncient and noble families, than of the richer or more vertuous. As the Commonweales of the Samians, the Corcyreans, the Rhodians, and Cnidians, and almost all the Commonweales of Greece, after the victorie of *Lysander*, were by him chaunged into Aristocracies of the most auncient families, in chusing out ten or twentie, or at the most thirtie, vnto whome hee committed the soueraigntie for the government of their estates. Wee see also the state of Venice, to be as we haue before shewed meere Aristocratike: And them also of Rhaguse, of Luca, of Ausbourg, of Nuremberg, to be composed in forme of Aristocracies, of the most auncient families, although they be but few in number. For as for the Rhagusians (in auncient time called Epidaurians) hauing new built the citie of Rhaguse, neere vnto the auncient citie of *Epidaurus*, vtterly rased by the furie of the Gothes, and exempting themselues from the gouernment of the Alhanois, established among themselues an Aristocratike forme of a Commonwealth, gouerned by the most noble and auncient families; following therein almost the example of the Venetians: yet still much more respectiue and carefull of their nobilitie, than are the Venetians. For a Venetian gentleman may marrie a base woman, or a common citisen daughter: whereas the Rhagusian gentleman may not marrie a common citisen, neither a straunger, how noble soeuer, if she be not a gentlewoman of Zarafi, or Catharo, and bee farther worth at the least a thousand ducats. There are also but twentie foure houses, which haue part in the state: out of whom are drawne diuers families, out of which the great Councell of about three hundred gentlemen is drawne; provided alwaies that they bee twentie yeares old, when they are so chosen. These make choyce of threescore gentlemen Senators, for the manning of the affaires of the state, and in cases of appeale, so that they be aboue the value of three hundred ducats: who haue also the hearing of criminall causes of importance, as if question be of the life, honour, or state of any gentleman. Beside this Senat there is a priuie councell of twelue persons, with a yearely prince or gouernour of the citie; and five masters of requests (whome they call Prouisors) men appointed to receiue the requests of the people presented vnto them in what court soeuer. There are also six Consuls to decide ciuill causes, and five other judges for criminall matters, and thirtie others for the deciding of such suits and controuersies as exceed not the summe of three hundred ducats. Many other meauer officers they haue also, of whome we will in due place speake. Truly this Commonweale of Rhaguse hath of all others that we haue heard, the purest Aristocratic, and farthest from all

The estate of the Swissers Aristocraticeall, yet tempered with a certaine mixture of popularitie.

The estate of the Rhagusians.

The estate of
them of Luca.

popular mixture. The citie of Luca also gouerned after the same fashion, admitteth onely the auntient families to bee partakers of the soueraigntie of their gouernment, who are but few, albeit that about the yeare 1555 there were numbred two and fiftie thousand citisens, besides women. Out of the nobilitie are created an hundred & twentie yearely Senators: out of whome are chosen the ten Councillors of the priuie Councill, with the prince whome they call the Gonfalonnier. And in these consisteth the soueraigne state of this Commonweale. Other officers there be also, as Censors, Pretors, and Receiuers, of whome we will in due place speake. Suffiseth it now for the present to haue shewed diuers Aristocraticall estates, in respect of soueraigntie, to the end by diuers examples both of the auntient and new Commonweales, we may the better vnderstand the true nature of an Aristocratie.

Whether the
Germane empire be a Monarchie, or a meere
Aristocratie.

And forasmuch as diuers men belecue, and some of them of greatest knowledge of the Germans haue by writing also published, the German empire to be a true Monarchie: we will also speake of that estate, whereof although we haue in brieft somewhat spoken before, yet here we will more at large thereof discoure, and show the same to be an Aristocraticall estate. True it is, that from the time of *Charlemaigne* vnto the raigne of *Henrie* surnamed the Falconer, it was a pure Monarchie by right of succession, continued in the royall blood of the said *Charlemaigne*. But the descent of *Charlemaigne*, taking end in this *Henrie* the Falconer, the Monarchie by the voyces of the princes being translated from this *Henrie*, hath of long time continued by the right of election: insomuch that the seuen princes Electours, hauing by little and litle withdrawn the soueraigntie, haue left nothing vnto the emperour, but the bare marks thereof in show; the soueraigntie it selfe in effect remaining vnto the state of the seuen electors, of three hundred German princes or thereabouts, and the ambassadours deputed for the imperiall cities. Which when it first happened, I see no man to haue yet written: For that such things as by little and litle and litle creepe into a Commonweale, are scarcely at all perceiued, neither well felt, vntill the change bee quite made. Now wee haue before shewed that it is an Aristocratike state, wherefoeuer the lesser part of the citisens or people commaund ouer the rest together, and ouer euerie one in particular. And so it is, that the estates of the empire, composed of three or foure hundred men (as I haue said) haue the soueraigne power priuately ouer the emperour himselfe, and ouer all the other princes, and townes of the empire in particular: as also to giue lawes to all the subiects of the empire, to determine of peace and warre, to lay taxes and impositions vpon the people, to appoint judges both ordinarie and extraordinarie, to iudge of the goods, honour, and liues of the emperour, the princes and imperiall townes: which all are the true markes of soueraigntie. Which if it be so, as most certaine it is, who can denie but that the state of the German empire is a true Aristocratie? And that to bee true which I haue said, is most euident; sith it is so, that the power of soueraigne commaund dependeth of the acts and decrees of the estates. But the decrees are made by the seuen princes electors, accounted for one third part of the voyces: and by the other princes of the empire, in number not aboue three hundred, who haue also another third part of the voyces: and by the deputies of the free cities or imperiall townes, in number seuentie, or thereabouts, which haue the other third part of the deliberatiue voyces: by whome all the lawes and decrees of the empire, or whatsoever els is propounded, haue vsed to be made, established, disanulled, or confirmed. And hath nothing particular in respect of the state, different from other Aristocraties, but that the seuen princes electors haue (as we said) one third part of the voyces; the princes another, and the imperiall townes the rest: in such sort, as that if the seuen electors and the deputies, or the deputies and the princes, or the electors and the other princes,

In whom the
soueraigntie of the
Germane empire consisteth.

A be of accord and agree in one, the decree whatsoever passeth. And for that the ecclesiastical princes are the greater number, they oftentimes carrie away the matter against the lay princes: which was the cause that the same lay princes, who had before renounced the Romish religion, tooke in euill part the diet which *Charles* the fift held at Ratisbon; neither being thither sent for, would come. And like as the gentlemen of Venice, Luca, and Rhaguse, vntil they be twentie yeares old enter not into the great counsell, neither haue any part in the soueraignie: euen so likewise the children or neere kinsmen of the German princes, be they young, or be they old, haue no voyces in the diet, if they be not qualified princes of the empire: which are a certaine number of Dukes, Marquesses, Counties, Lantgraues, Burgraues, Margraues, Barons, Archbishops, Bishops, and Abbats. And albeit that the duke of Loraine be a prince of the empire, and hath a voyce with the rest of the princes, yet so it is, that his vncl the countie *Vaudemont*, of the same stocke and house with him, as other like princes of the same ranke and order, haue neither voyces nor places in the assembly of the states and princes of the empire, but are reckoned amongst the children of those princes. Howbeit yet many are of opinion, the princes and imperial cities to haue their soueraigne states apart, neither to be bound vnto any other mens commaunds or lawes, otherwise than as friends and confederats; in such sort and manner, as the Swissers haue their cities and iurisdiccions among themselues, one diuided from another. But the difference is to him that looketh neerer thereinto, right great, euerie Canton being soueraigne in it self,

C and not subiect vnto the lawes and commaundements of others; neither otherwise bound among themselues, than in aliance offensiue or defensiue, as we haue in due place declared: whereas the German empire is vnited by the estates generall in soueraignie, who not onely haue power to bridle the princes and cities, with fines, exile, proscription, and other seuer punishments, but also to depose and thrust out of the empire euen the emperours themselues, as they did the emperours *Adolphus* and *Veneslaus*, with many others. Beside that, the estates make ordinarie decrees and lawes, which bind all the subiects of the empire, as well in generall, as in particular. And that more is, the ten circles or circuits of the empire, hold their particular estates, and yet bring their requests, complaints, and grieuances, vnto the estates generall, to receiue their commaundements and resolutions, as lawes. Moreouer the princes electours, the day after the coronation of the emperour, protest themselues to hold their states of the empire, and not of the emperour, albeit that they doe their homage betwixt the emperours hands. In brieft, all iurisdiction and soueraignie of all appeales in ciuill causes, aboue twentie crownes by the auntient lawes, and sottie by the new, appertaine vnto the imperiall chamber, as to all the appeales of the subiects of the empire: which chamber is composed of twentie foure judges, and one prince of the empire, chosen euerie yeare, according to the order of the ten prouinces or circuits. And if so be that any controuersie arise betwixt any of the princes, or the imperiall cities themselues; whether it bee for their bounds, their liues, their honour or states, the deciding thereof belongeth vnto the judges of the imperial court: except it please the whole states of the empire to take vnto themselues the hearing and determining of the matter, in such their generall assemblies as we haue before spoken of. As in the yeare 1555, it is set downe in a decree of the empire, That if from that time forward any prouince, prince, towne, or subiect of the empire should beare armes against the German nation, hee should bee iudged by the states of the empire; who to that end were appointed to hold a diet at Wormes. And in the same diet holden at Ausburg, it was forbidden all the princes of the empire, to raise any armie, or to take vp armes in the aid of any straunge prince, and that vpon a great penaltie. And that more is, it is expressely and most straitly forbidden by the laws

The princes electours hold their states of the empire and not of the emperour.

* Lib. 2. cap. 28.

The maiestie of the empire not to rest in the emperor but in the whole assemblie of the estates of the empire.

* of the empire, any prince, towne, or corporation, to be so hardie, as to prohibit or let the appeales of the subiects vnto the imperiall chamber, and that vpon great paine also. And in fine, the emperor himselfe, as head of the assemblie of the states, more straitly bindeth them as it were into one bodie and Commonweale, than if they were but of themselves onely: and yet in him resteth not the maiestie of the empire, but in the whole assemblie of the states. For other which hold the soueraigne power in Commonweales, doe themselves creat princes, dukes, and earles, whereas the emperor is himselfe by the other dukes and princes of the empire created. How therefore can hee being the selfe same man be both the soueraigne and subiect of the empire, lord, and vassall, maister, and yet constrained to be obedient vnto the estates? And not vnto the estates onely, but euen vnto the deputies and lieutenants of the empire? Which vnto some may seeme right straunge, and yet is indeed most true. I truly my selfe haue read the letters of a great lord, pentionarie vnto the king, directed vnto *Mommorancie* the Connestable, bearing date the twelfth of May, in the yeare 1552: whereby hee aduertiseth, that *Henrie* the second (then the French king) had iust cause to complaine vnto the duke of Saxonic, and the countie Palatine, lieutenant for the empire, to haue iustice against the emperor *Charles* the fift and his brother *Ferdinand* king of the Romans, according to the golden bull, and decrees of the states: for that they contrarie vnto the lawes of the empire and customes of their auncestors, hauing intercepted the kings letters directed vnto the estates of the empire, had not suffered the same to bee vnto them deliuered, but also forbidden the archbishop of Mets, chauncelour of the empire to receiue or present the same vnto the states, as his office was. And by the assemblie of the imperiall diet holden at Heidelberg, in the yere 1553, it was decreed, that none of the emperours court should mannage any the affaires of the empire; as I haue seene by letters from the French ambassadour. And as for monies extraordinarily raysed by the decree of the estates, for the affaires of the empire; they are not brought into the emperours coffers, but are laid safely vp in store in certaine cities therefore appointed: *viz.* Strausbourg, Lubec, and Ausbourg: Neither is it lawfull for the emperor to take so much as one peny out of the common treasure, without the consent of the state. Al which most plainly show them to be in an ertour, and much deceiued, which call the German emperor a Monarch; or which deeme that Aristocraticall estate to bee a right Monarchie. Whereas all to the contrarie the emperor *Maximilian* the first, great grandfather to him which now raigneth (albeit that hee was ambitious enough) yet in a discourse which hee had with the states of the empire concerning such matter, told them, That hee thought it not needfull to take the imperiall crowne at the hands of the Bishop of Rome, neither to stand vpon such ceremonies, seeing that the soueraigne power, as they knew, rested in the states themselves. Neither is it lawfull for the emperor of himselfe, or at his pleasure to call together a diet of the empire, without some especiall and extraordinarie vrgent cause, neither to dissolue the same: but at the breaking vp of euerie diet, order is there taken for the diet to bee holden the yeare next following. So that it is not lawfull for the emperor to rall an assemblie of the states, which it was lawfull for the Roman magistrats to do, as also for other magistrats in euerie popular and Aristocraticall Commonweale, so that it were done by commaunding of euerie one, as in particular, but not of altogether, as in common: After the auntient manner of the Romans, whereby the Consull might by his edict call together all the Senators, one by one into the Senat, vpon paine of proceeding against them, by seising vpō their bodies or goods, by way of imprisonment, taking of pledges or rasing of their houses. And yet for all that the German princes are not bound to come vnto the diet of the empire, if they be by none commaunded, but by the emperor,

A rrou, as they gaue *Charles* the fift the emperour well to vnderstand, in the yeare 1554: and also *Maximilian* the second, refusing in the yeare 1566, to haue any diet then according to his request holden. And if it fortune the emperour, or king of the Romans, to come vnto the frontiers of their territories, the princes euerie one of them in their degree goe to meet them, but yet in such sort, as if it were but to meet a straunge prince.

Now if one should say that the Emperour beareth himselfe as a Iudge, and determiner of all quarrels and controuersies betwixt the Princes, or the imperiall Townes; True it is at the first motion, and when the parties are content to accept thereof, and that also but as Lieutenant for the Empire: as in like case the Duke of Saxonie, and the Countie Palantine might also iudge as the Imperiall Lieutenants: and yet for all this, appeal made vnto the Estates of the Empire suspendeth the power of the Emperour, as well as of the imperiall Lieutenants. Yet might some say, that the Princes of the Empire by their letters, and in the assemblies of the States, vse these magnificall titles towards the Emperour, *Your sacred Maiestie*, and such like, which cannot be applied but vnto him which is himselfe a Soueraigne: such as slaues would scarce vse towards the greatest kings on earth: titles for fashion sake, foolishly or wickedly (should I say) giuen by flatterers vnto men; which are onely fitting the most mightie and immortall God. And yet do indeed no more increase the power of the Germaine Emperour, then of the King of the Romans: whom by such like prodigall pompe and words, a man might also think to haue the power of soueraigne Maiestie; so that in that Empire there should be two Soueraignes: and yet for all that one of them subiect vnto the other. For so *George Helffstein* Baron of Gondelphingen, pronouncing the speech of *Ferdinand* king of the Romans in the generall assemblie of the States of the Empire in the yeare 1556, calleth him their Soueraigne Lord.

How the emperour determineth the quarrels and controuersies betwixt the princes, or the imperiall townes of the empire.

Glorious flattering titles giuen to princes neuer a whit encrease their soueraintie.

But the greatest argument of Soueraigntie is, that the Emperour giueth the fees of the Empire being void, vnto whom he pleaseth, and inuesteth in them whom he seeth good: and that without the consent of the States. Whereunto I againe answere, that the expresse consent of the Estates is not necessarie, and yet is it not altogether done without their good liking, who neuerthelesse permit the same; when as they might as well cut of this point, as they haue done the other marks of Soueraigntie. And howbeit that the embasadour *Marillac* was of opinion, that the Emperour had not this power; and therefore aduersed king *Henry*, how that the Emperour *Charles* the fift had at Bruxelles in the yeare 1551, inuested *Philip of Spaine* in the Duchie of Millan without the consent of the States of the empire: yet can he not find so much as any one inuestiture of any Imperiall fee, in the conferring whereof the expresse consent of the Estates was had. But certein it is, that the Emperour bestoweth not these fees or inuestitures, but as in qualitie of the Lieutenant of the empire: in such sort as he receiuethe the fealtie and homage of the princes, for, and in the name of the empire. As in like case *Ferdinand* the emperour without the consent of the estates of the empire, receiued *Granuellan* sent vnto him with speciall charge and deputation from *Philip* king of Spayne in the yeare 1565, to do for him the fealtie and homage due vnto the Empire, for the Duchie of Millan, and the perpetuall Lieutenancie of the principallitie of Sienna: granting vnto him as a vassall of the Empire charters of his fealtie done: and for the confirmation of his possession therein. The same is to be thought concerning the confirmations of benefices, and other royall rights, which giuen by the princes or cities of the empire, or by the Chapters and Colleges of priests themselues, are yet neuerthelesse to be confirmed by the Imperiall authoritie: according to the agreement made betwixt the Bishop of Rome, and the estates of the Empire. As for letters of conduct

How the emperour bestoweth the fees of the empire.

The maiestie of
the Germaine
emperour by this
French author
still empaired

safe conduct which he giueth vnto embassadors, heralts at armes, and other strangers, F
whereunto the ordinarie clause is adioyned in these words, *Forasmuch as wee for our
Imperiall power may do all things*: they show right well that the Emperour was in aun-
cient time a soueraigne Monarchie; which he now is not: For why then should the
Electors and other princes of the Empire refuse to grant vnto the emperour, the diet
which he requested of them in the yeare 1566? or why then should both hee and his
officers be by them forbidden so much as to touch the monies by them raised for the
maintenance of the warres. And to cut it short, we need not but to look into the ar-
ticles of the oath made by the Emperours (by vs before declared) to know yet more
evidently, that the soueraigntie of the Empire is not any wise in the emperour, albeit
that he carrie the crowne, the scepter, and weare the other most precious and imperial G
habits, and in all solemnities and ceremonies hath the precedence before other the
Christian kings, yea and that men attribute vnto him the title of *Most sacred Maiestie*,
all in deed hauing the show of soueraigne and royall maiestie, but yet not the thing it
selfe. And yet to say the trueth, a man knoweth not how to do him so great honour,
as the maiestie of the sacred empire, whereof he is the head, deserueth. But the maner
of well gouerned Aristocratike states, is to graunt vnto him the least power to whom
they giue the greatest honour: and sometimes also least honour vnto them that be of
most power: as of all others the Venerians in the ordering and gouernment of their
Commonweal best know how to vse that matter. Seeing therefore wee haue thus
showed the Empire to bee but an Aristocraticall estate, we may well conclude, That H
there is neither prince nor imperiall citie which hath therein the soueraigntie, being
nothing else but members of the empire, euery one of them gouerning their estate vn-
der the power, and without any thing derogating from the lawes and ordinances of
the empire. Wherein many are deceiued, which make so many Commonweals as
there are princes and imperiall townes; the contrarie wherof we haue before showed.
But as in this realme euery citie and seigniorie haue their Iudges, Consuls, Sheriffes,
and other their particull officers which gouerne their estate; so is it in the Imperiall
townes and cities: but that here are moe roiall iudges; whereas in the empire there
is none but the Imperiall chamber onely which receiueth the Appeales from the other
judges and lieutenants of the empire. And yet neuerthelesse when it chanceth the
empire to be diuided into factions, and part takings; or that the princes bandie them
I
selues one of them against an other (which hath beene too often scene) then euery
towne and prince for the most part beare them selues as diuers Aristocraticall estates,
and particull Monarchies; making of euery member a particull bodie of a soue-
raigne Commonweale.

A great pollicy
in Aristocratike
estates to giue
vnto him least
power to whom
they giue most
honour.

Now as the state of the Empire it selfe is entirely Aristocratique, so also the great
imperiall townes and cities hold their estates in Aristocratike forme: as Aufburg,
Nuremberg, Wormes, and others, which are almost all Aristocracies; albeit that in
trueth some of them are more popular than others, as is the citie of Strasbourg. But K
for breuitie sake I will for example onely set downe the state of the citie of Nurem-
berg, the greatest, most famous, and best ordered of all the imperial cities, established
in forme of an Aristocratie; wherein of an infinite number of ciizens there are but
xxviij. auntient families which haue power ouer all the rest of the subiects, which are
within the iurisdiction of Nuremberg. Out of these xxviij. families, they euery yeare
first make choice of two Censors; men without any imputation; which done, all the
rest of the magistrats are euery one of them displaced: then these Censors according
to their owne discretion make choice of xxvj. Senators: who out of themselues chuse
xiiij. persons, for the managing of the secret affaires of that Commonweal: and out of
the

The estate of
Nuremberg
Aristocratike.

A the same Senat also make choice of other xiiij. Sheriffes also: beside the vij. Bourgmasters, which are an other particular counsell, whose authoritie and power is much like vnto that of the Decemviri in Venice. And these Magistrats which we haue spoke of, are they which mannage all the greatest affaires of that Commonwealth. I speak not of the fiue criminall judges: nor of the twelue appointed for the deciding of ciuill causes; neither of the Prouiditor for victuals, the two treasurers: nor of the three maisters of the wards: almost of like authoritie with the procurators of Saint *Marke* at Venice, to the imitation of whome they of Nuremberg seeme in some sort to haue bene desirous to fashion their Commonwealth. And albeit that of the imperiall townes some of them be freer than other; as are those which be neither in subiection nor protection of other princes, namely Nuremberg, Strasbourg, Lubec, Hambourg, Breme, Wormes, and Spire. Yet so it is, that they all as subiects haue a reuerent regard vnto the maiestie of the German empire. True it is, that there are many which haue exempted themselves from the power of their princes, to maintaine themselves in libertie: and now of late to hold of the empire, as the towne of Brunswich, which hath withdrawne it selfe from the obeylance of the princes of Brunswich, Wormes and others, which haue exempted themselves from the power of their auntient lords. As in like case the Swissers and Grisons, now diuided Commonweals, but sometimes subiects of the empire. And namely, the lords of the Canton of Fribourg, in the treatie of Combourgeoisie, betwixt them and the lords of Berne, call the towne of Fribourg a member of the empire, albeit that they haue their state therefrom diuided vnto themselves in full soueraigntie. Some others acknowledge and confesse themselves to hold their liberties and priuileges, for the gouernment of their estate from the emperour; as they of Vri, vnderuald, and Schwits, hauing their letters patents therefore from *Lewes* of Bauiaria the emperour, bearing date the yeare 1316. They also of Tietmarsh for the confidence they had reposed in the strength and situation of their countrey, (placed in the frontiers of the kingdome of Denmarke) withdrew themselves from the German empire, and established their Commonwealth in forme of an Aristocratie, of eight and fortie of the better sort of them, who so long as they liue haue the soueraigntie, and when one of them is dead, still chusing another in his place. True it is, that in the yeare 1559, *Adolph* duke of Holst did what he could to haue subdued them, pretending that *Christiern* his great grandfather had of the emperour *Frederike* the third obtained the soueraigntie ouer them of Tietmarsh, for hauing dismembred themselves from the empire; as I haue seene by the letters of Maister *Danzai*, ambassadour for the king into Denmarke.

Most of the imperiall cities of Germanie gouerned in forme of Aristocracies.

E Wherefore it is manifest not onely the whole estate of the Germaine empire, but euen the imperiall cities, themselves also to be gouerned in manner and forme of pure Aristocracies. But heere we must haue regarde in considering of the Aristocratique estate that wee confound not the princes and chiefe magistrats of a Commonwealth with kings: nor a counsell of the nobilitie with a Senate: wherein Historiographers often times erre and goe astray, and that specially when as in a Commonwealth there are so few of the nobilitie or better sort to mannage the state, as that they are both Senatours and magistrats: which gouernment of few, the Greekes call an Oligarchie. So the Pharsalian estate was gouerned by twentie of the nobilitie: the Lacdemonians by thirtie; neither were there moe in all the cities of the Greeks after the victorie of *Lyfander*. They of Thetmarsh were gouerned by eight and fortie; and had no other Senatours then the Seignorie it selfe: the Cnidians by threescore (whome of their integritie of life they called *Amymones*) but these were but annuall magistrats: where as the other were perpetuall. And all be it that the Cnidians neuer gaue any account

of that they had done in time of their gouernment, yet were they not therefore soueraigne lords, but soueraigne magistrats; who their magistracie once expired, were again to restore vnto the nobilitie, the soueraigne gouernments by them committed to their charge. In like case they of Zurich chose euerie yeare thirtie six magistrats, of whom twelue by course gouerned foure moneths: which forme of gouernment continued vnto the yeare 1330, that the common people enraged and rising vp in mutinie cast them out, creating in their stead a Senat of two hundred of the nobility, with a Confull chiefe amongst them: and all those estates had the counsell of their nobilitie and Senat all one. Yet doe they better and much more surely, which in an Aristocratic (how little foucer) be it deuide the counsell of the nobilitie from the Senat: as amongst the Rhagusians, where although the number be but small of them that gouerne that Commonweale, being it selfe shut vp into a small roome: yet of them is made a Senat of threescore men, out of whom are selected twelue to mannage the secret affaires of their state. Heretofore also the Commonweale of Chio established in forme of an Aristocratic by certaine Genua gentlemen of the house *Austinian*, hauing won it from the emperours of Constantinople; euerie yeare made choice of twelue counsellors of estate for the Senat: out of whome they chose foure, who with one soueraigne prince or magistrat gouerned all the affaires of state: the authoritie of which foure for all that, was but for six months, the soueraign magistrat yet stil holding his place for two yeres: in which manner of gouernment they honorably maintained their estate, vntill that of late yeares it was by the Grand Signior taken from the Genowayes, and so vnted vnto the Turkish empire. H

And thus much concerning the definition of an Aristocratic. Now as concerning the profits and dangers incident vnto an Aristocratique estate: & the manner of the gouernment thereof, we will in due place declare. It resteth now to answere vnto that which Aristotle saith concerning an Aristocratic, being altogether contrarie vnto that which is by vs before set downe. There are (* saith hee) foure sorts of Aristocracies: The first, where none but the richer sort, and that to a certaine reuenu, haue part in the gouernment of the Seignorie: The second, where the estates and offices are giuen by lot vnto them which hold most wealth: The third, where the children succeed their fathers, in the gouernment of the Seignory: And the fourth, when they which take vpon them the state, vse a lordlike power and commaund without lawe. And yet neuertheles in the same booke, and a little after, hee maketh fise sorts of Commonweales, viz. the Regall, the Popular, the gouernment of a few, the gouernment of the nobilitie; and after these a fift kind, composed of the other foure: which (as hee saith afterwards) is no where to be found. But such a medley of Commonweales wee haue before not onely by probable but euen by necessarie reasons also, prooued to bee impossible, and by nature altogether incompatible: wherefore letting that passe, let vs now also show the diuers formes of Aristocracies by *Aristotle* set downe, to bee no way considerable. First hee no where defineth what an Aristocratic is: the verie cause of his errour. For what can bee more vaine, than to say it to be an Aristocratic where the richer or the better sort haue onely part in the gouernment? For it may bee that of ten thousand citifens, six thousand of them hauing two hundred crownes of yerely reuenu, haue all part in the Seignorie; and yet neuerthelesse the state shall be a popular state, considering that the greater part of the citifens haue the soueraignitie: for otherwise there shall be no popular Commonweale at all. The like might be said for the gouernment of the better sort also, who might chaunce to be the greater number of the citifens, which should haue part in the Seignorie: and yet according to the opinion of *Aristotle*, it should also be an Aristocratique estate, al-
bein

Four sortes of Aristocracies by Aristotle set downe.
* *Polit. lib. 4. cap. 3.*

* *Lib. 4. cap. 7.*

Aristot. by the author impugned.

A be it that the greater part of the people beare therein the sway. As for the gouernment of good men, if we shall measure them according to the highest degree and perfection of vertue, we shall not finde one such: but if after the common manner, and opinion of the people, so euerie man will call himselfe a good man. But to iudge of an other mans integritie and vertue, as it is an hard matter for any man to do, so hath it it also vnto wisemen alwaies seemed a thing most dangerous: Insomuch that the wise and graue *Cato* being chosen out for the purpose, durst not giue sentence whether *Q. Lucrati* was a good man or not. But admit that in euerie Commonweale the good are in number fewer than the bad; & yet haue the gouernment of the common state: why for the same reason hath not *Aristotle* made one sort of Aristocracy, wherein the nobilitie hold the soueraignitie? seeing that they are euer fewer in nūber then the base & vulgar sort: why also maketh he not an other sort of Aristocratie, wherein the most antient families although but of base degree bore rule? As it chanced in Florence after that the nobilitie were driuen out. For it is right certain that there are many base families, who although they be not famous or much spoken of for any great thing by them or their auncestours done, are yet more auncient and honest then a number of vpstart gentlemen, who happily scarce knowe their owne fathers. He might also make an other sort of Aristocratie, wherein the tallest and greatest should haue the soueraignitie as he himselfe *saith they do in Ethiopia: and so consequently also an Aristocratie of the fairest, of the strongest, of the valiantest, of the wisest, of the learnedst, and of others with such like qualities of the bodie, or of the minde: as wee see to bee incident but into the fewer sort: whereof should ensue an infinite multitude and varietie of Aristocratique Commonweales. But that seemeth also vnto mee most strange that hee should say the second sort of an Aristocracy, to be where the richer sort by lot haue the gouernment and manning of the state, whereas alwaies, elsewhere, hee had said lots properly to appertaine vnto the popular state. Thus the Athenian Commonweale was of all other most popular, he with *Xenophon* agreeth: and yet for all that the greatest honours, offices, and preferments were not their giuen, but vnto the richest before the time of Pericles. And in Rome which was also a popular state, before the law *Canuleia* the greatest honours, priesthood, and preferments, were not bestowed vpon any of the common vulgar sort, of people, but vpon the most auncient gentlemen whome they called *Patricii*: a most certain argument that the Commweale may bee in state popular, and yet gouerned Aristocratically: and that there is a notable difference betwixt the state of a Commweale; and the gouernment of the same, as we haue before said. As for the fourth sort of Aristocracies, wherein (as *Aristotle* saith) some few which take vpon them the manning of the state, vse a Lordlike power and command ouer all without law, in manner of a tiranie: we haue before showed the difference betwixt a Monarchie royall, Lordlike, and tirannical: the like difference whereof is also in the Aristocratique gouernment: wherein the Lords may gouerne their subiects as slaues, and dispose of their goods, as may the Lordly Monarke, without law and yet without tiranising also: not vnlike the good maister of the familie, who is alwaies more carful of his slaues, than of his hired Seruants: and so also loueth them better. For why it is not the law which maketh the iust and rightfull gouernment, but the true administration of iustice, and equall distribution thereof. And the fairest thing in the world that can be desired in matter of state, (in the iudgement of *Aristotle* himselfe) is to haue a wise and vertuous king, knowing how to gouerne his people without lawe: considering that the lawe oftentimes serueth many but as a snare to deceiue and snarle men in: and is also of it selfe dumb and inexorable: as the nobilitie of Rome complained at such time as the people would needes haue lawes, and be gouerned by

Hard to iudge
who is a good
man.

* *Polit. lib. 3.
Cap. 5.*

A wise and vertuous king the
greatest ornament and stay of
a Commonweale

them, after that the kings were driven out, who governed without law & gave judgement according to the diuersitie of the facts, or causes presented before them: which manner of iustice the consuls and nobilitie, who in some measure held the Commonweale in an Aristocratique state continued, vntil that the people desirous to bring it vnto a popularitie, requested to bee governed by the equalitie of lawes, and not to haue their liues, fame, and fortune, to depend of the iudgement of the nobilitie & choice magistrats only: which their request after that it had bin, with much ado & yerres debaited, against the Lordlike Aristocraticall government of the nobilitie: they at length at the instance of their Tribune *Terentius Arsa* caused it to passe in force of a law, that from that time forward the nobilitie, consuls, and magistrats, should themselves as well as the people, be bound to all such lawes, as the *Decemviri* to that purpose appointed by the people should set downe and make. It is not therefore the law which maketh good Princes, or magistrats in a Commonweale, be it a Monarchie or Aristocratie; but vp-right reason and iustice, engrauen in the mindes and soules of iust princes and Magistrats; and that much better then in tables of stone. Neither euer were there more cruell tyrants then were they, which bound their subiects with greatest multitude of edicts and lawes, which the tyrant *Caligula* of purpose, and to no purpose, caused to bee set downe in so small letter, as that they could hardly be of any man red, but with *Lincus* eyes, to the intent thereby to entangle the moe through ignorance transgressing the same: whole successour and vncke *Claudius* in one day made twentie edicts: and yet for all that there was neuer greater tiranie then then: neither worse or more vilanous men. But as an Aristocratie well ordered is of it selfe a maruelous faire and goodly state: so can there be none worse if it be once corrupted: when as for one tyrant there shal be many: and that especially when the nobilitie shal bandie it selfe against the people: as it often times chaunceth; and as we reade it to haue in auncient time fallen out, when as in many Aristocratique estates none was by the nobilitie admitted into their number for the government of the state; but that they must first sweare, to be for euer enemies vnto the people, and all popular men: a course not so much tending to the destruction of the coninialtie and people, as of the nobilitie and mightie men themselves: and so to the vtter subuersion of all Aristocracies, as we shall in due place declare And thus concerning the Aristocraticall estate: now let vs likewise see what a popular estate is.

CHAP. VII.

¶ Of a Popular Estate.

What a popular estate is.



Popular estate is a forme of Commonweale, wherein all or most part of the people together commaundeth in soueraignetie ouer the rest altogether, and ouer euerie one in particular. The principall point of a popular estate is seene in this, that the greater part of the people hath the Soueraigne commaund and power not onely ouer euerie one in particular, but also ouer the lesser parte of all the people together. As for example in Rome, where there were but siue and thirtie tribes or companies of the people: eightene of these companies together, had soueraigne power ouer the other seauenteene: and authoritie to establish lawes, whereunto both they and euerie one of the Citizens in particular were subiect and bound, wherefore *Tiberius Gracchus* the factious Tribune of the people requested *Marcus Octavius* his companion and fellow of himself to giue

A vp his office, before that the eighteene tribes had giuen their voices for the deposing of him: for withstanding of *Tiberius* propounding and vrging the lawes for the diuision of lands: and for opposing himselſe against the profit of the people. Also at such time as *Lucius Rullus*, the busie Tribune by request which hee presented vnto the people, concerning the diuision of lands, desired that the commissioners which had that charge, might bee chosen by the greater part of the seauenteene tribes of the people onely: *Cicero*, then *Consull* tooke thereupon occasion amongst the other things to crosse the entertainment of his request, and publication of the law, saying: that the Tribune in so doing went about to deceiue the other eighteene Tribes, that is to say the greater part of the people of their voices, which the Consuls obiection was the lesse

B to haue bene regarded, and the more easily to haue by the Tribune bene answered, for that his request was, but if it pleased the people (that is to say: the greater part of the 35 Tribes) that the lesse part of the people (that is to say the seauenteene tribes) might appoint the commissioners; so that the maiestie of the people notwithstanding his request remained still whole and vntouched: considering that the lesser part of the people was thereunto to be deputed, but at the will and pleasure of the greater part: to the end that the greater part of the people should not still for euerie trifling matter be called together. So by the law *Domitia* it was provided that if by the death of any of the Augures, Pceests or Bishops any benefice fell voide, they should assemble but 17 tribes of the people for the nominating of him, whom they would haue chosen Bishop: so that he which was by nine of the tribes of the people nominated and allowed, was by the chapter or Colledge of Augures or Bishoppes to be admitted and receiued.

When I say the greater part of the people to haue the soueraignitie in the popular estate; that is so to be vnderstood, when the voices are to bee taken by Pole as in Venice, in Rhaguse, in Genua, in Luca, and almost al Aristocrarique Commonweales: but if the voices be taken by tribes, parrishes, or companies sufficeth it, of them to haue the greater part, also albeit that there be in them far the lesser part of citisens, as it hath commonly chanced in auncient popular Commonweales. In Athens the people was diuided into ten principall tribes, whereunto in fauour of *Demetrius*, and *Antigonus* they ioyned two others, of them called *Antigonia* and *Demetria*: and againe the people was diuided into thirtie sixe classes or companies. But such diuisions according to the diuers encreasings of the people, and more easie and commodious giuing of voices are often time changed. So *Romulus* at first deuided all the people in Rome which then was about 3000 into three tribes or parts: and after that euerie part into ten companies, appointing ouer euerie one of them an head: how be it the voices (as *Livy* saith) were then al giuen by poll. But by the ordinance of king *Seruius* the people was againe diuided into sixe companies, according vnto enery mans wealth and reuenue: in such sort: as that the first companie wherein the richest were enrolled, had as much power as all the rest: if the centuries of this first companie were al of one accord and mind in giuing of their voices, that is to say fourescore centuries, which were but eight thousand persons; for in that case the voices of the other fve companies were neuer asked. But if two or three centuries of the first companie were not of the same opinion with the rest: so many centuries of the second companie were drawne out as might supply that defect, and that so often in euerie companie, vntill the number of fourescore companies were filled vp. So that in taking voices they seldom came vnto the third & fourth companie: but most seldom vnto the first, and vnto the sixt neuer: in which sixt companie was the refuse of the people, and poorest citisens, which according to the view then taken, were in number aboue threescore thousand: beside the bourgesses and citisens of the fve first companies in number sixteene thousand.

Great difference whether voyces be taken by Poll or by Tribes & companies, in a popular Commonweale.

The small number of the people of Rome, and how they were diuided in the time of Romulus, and how they were againe diuided in the time of King Seruius, with the manner of their giuing of voyces.

How the people of Rome wrested vnto it selfe the soueraigntie, and how that state of an Aristocratie became a Democratie, or a meere popular state.

How *Fabius* by great wisdom overthrew the popular deuise of *Appius*, and so obtained the name of *Maximus*.

Marius popular.

No Commonweal so popular as that all the people gaue therein voice, it being sufficient that the greater part of the tribes still carried away the matter.

And had this ordinance of king *Seruius* still remained in force after kings were driven out, it had not bene a popular state but an Aristocraticall, for that the lesser part of the people had then therein the soueraigntie. But shortly after the expulsion of the kings the common people seeing themselves oppressed by the wealth & power of the greater, revolted thrice from the nobilitie, and held their state apart: to the intent they might euery one of them, as wel the poore as the rich, the base as the noble, haue their voices alike; neither could they be before quieted, vntill they had obtained power out of the bodie of themselves to chuse their Tribunes, the maintainers of their liberties: wherof their Tribunitial assemblies began first to be holden. But for asmuch as the nobility & richer sort dispersed among the tribes, caused the poorer & meaner sort (for the most part their followers) to giue their voices at their appointment & pleasure; there was a decree made, That from thenceforth the nobilitie should no more be present at the assemblies of the common people: which was then divided into eightene tribes, which by little and little in continuance of time tooke such increase, that they grew to the number of fife and thirtie tribes: who at length by meanes of their factious Tribunes got vnto themselves the soueraigntie of the Commonweal, with power to make all the lawes, and chuse all the magistrates, except the Consuls, the Prætor, and Censors, which for that they were the greatest magistrates, they were still chosen by the greatest assemblies, that is to say of the nobilitie and people together, the whole bodie of the people beeing (as wee said before) diuided into tribes or companies. But forasmuch as the enfranchised men, and such as by desert had obtained the libertie of the cittie, mingled through all the tribes of the people of Rome, in number far exceeded the naturall and antient citisens, and so by multitude of voices, carried all things away from them: which (as we haue before said) was by *Appius* the Censor done, thereby to gratifie the vulgar people, and by that meanes to obtaine of them what so he would: *Fabius Maximus* the Censor by great wisdom overthrew all the grace that *Appius* had by cunning got, by thrusting all the enfranchised men, and such as were of them descended, into foure tribes by themselves: so to preserue the antient and freeborn citisens in the right of their voices. For which onely fact by him brought to passe without tumult or sedition, hee obtained the name of *Maximus*, or as we say, the Greatest. Which his order still continued, vntill that about 300 yeares after, *Seruius Sulpitius* Tribune of the people, would needes haue the enfranchised men againe enrolled into the Tribes of their maisters by whome they were before manumild or set at libertie: but before this his motion was brought to effect, he was himselfe slaine: which for all that in the time of the ciuill warres betwixt *Marius* and *Silla*, was by *Marius* (hauing ceised vpon the citie) effected: so to make the estate of the Commonweale more popular, and to weaken the authoritie of the nobilitie and richer sort. *Demosthenes* after the victorie of *Philip* king of Macedon at *Charonea* attempted the like at Athens; by presenting a request vnto the people, That the enfranchised, and other the inhabitants of Athens, might be enrolled in the number of citisens: which his request was then euen openly reiected, albeit that there then were not about 20000 citisens: which was seuen thousand moe than was in the time of *Pericles*, when as were found but thirteene thousand citisens enroled, out of whom also 5000 strangers, who had slyly crept in for citisens, were sold for slaues: and yet the multitude of the slaues was than ten times more than the number of the citisens.

This which I haue said, may well serue to aunswere that which might bee alleaged, That there is not, neither haply euer was any so popular a Commonweale, as wherein the subiects had all voyces alike; or if they had, that they could all meet together to make lawes, create magistrats, and vse the other markes of soueraigntie: a good part of them

A them to the contrarie being ordinarily still absent, and so the lesse part making the law. But it sufficeth, that the greater part of the tribes carried away the matter, albeit that haply in some one tribe a thousand citisens were in voyces equall vnto another, wherein there were ten thousand; considering that the prerogative of euerie mans voyce was in this tribe referued vnto him. Yet hereby it came to passe, that the more ambitious sort of men oftentimes by bribes or fauour corrupted the chiefe men, and as it were the ringleaders of the tribes, especially at such time as the lesser part of the people was present at the assemblies: Which to meet withall, it was therefore oftentimes provided, that when any law of importance was made, it should in no wise bee againe repealed, except there were six thousand citisens at the least present at the assembly, who gaue their consent to the renoking thereof; as is, oftentimes to bee seene in *Demosthenes*. And the Ostracisme (as *Plutarch* writeth) tooke no place vpon any man, except six thousand citisens at the least agreed in one therein: which yet was the lesser part of the people. The like whereof is also obserued in the lawes of the Venetians; being of any great weight or importance; and namely in laws concerning the execution of iustice, wherunto this clause is adioyned, That the great Councel shal not in any thing derogat from the law established, except there be at the least a thousand Venetian gentlemen there present; and that of them, eight hundred all agree in one and the same opinion, for the repealing of the law. Whereunto the Roman lawes, concerning corporations and colleges, seeme also to haue had regard; where two third parts of the Collegiats, and of them also the most voyces must agree, to giue any law or order vnto the rest. And in all the assemblies of the Venetians, which haue bene called together for the government of the seignorie in our daies, there haue scarcely at once met together fiftene hundred gentlemen: so that when the law willet a thousand of them at the least to be present, the meaning of the law is, that there should two third parts of those which haue voyces in the state be still present, and of them eight hundred to be all of one opinion for the passing of any matter: which I thinke to bee therefore done, for that eight hundred of them make the greater part of fiftene hundred: a thing requisit, where voices are taken by the Poll, as in Venice, and not by tribes or companies, as they did in Rome and other popular estates, by reason of the infinit multitude of them which had part in the seignorie. And in Rome, vntill the law Fusia, (made 693 yeares after the building of the citie) they confounded the voices of the tribes, to the intent it might lesse be vnderstood which way euery tribe had gone, so to auoid the displeasure of the citisens among themselues, about the giuing of their voices: So at Strasbourg the most popular of the German cities, and at Mets, although it came into the power of the French, yet they giue their voices by tribes; as the three popular Commonweals also of the Grisons, call the tribes and companies vnto their assemblies, for the creating of their magistrats, and making of lawes: yet so, as that the greater tribes haue the greeter part of the suffrages or voyces. True it is, that the cantons of Uri, Schwitz, Vnderwald, Zug, Glaris, and Apenzel, which are true Democracies, and hold the more popular libertie, for that they are mountainers, make their assemblies for most part in open places, and there euerie one of them (being fourteene yeares old) giue their voices for the chusing of the Senat, the Aman, and their other magistrats, which they doe by lifting vp their hand, after the auntient forme of the Athenian *χεροτομία*, and manner of other such popular Commonweales, sometimes constraining their neighbours with drie blowes to hold vp their hand, as they did of old. In like manner the tribes of the Grisons, which are of others most popular, and most popularly gouerned of any Commonweale that is, make their common assemblies for the choice of their Aman: (which is the soueraigne magistrat in euerie one of their little cantons:)

where he which hath bene Aman the three yeares before, standing vpright, and excusing himselfe vnto the people, craueth of them pardon for whatsoeuer hee hath done amisse in his office before: then after that hee appointeth out three citisens, out of whome the people chose one for their Aman or chiefe magistrat for the yeare following: after whome they chose also his lieutenant, who is as it were the chauncellour, and thirteene other counsellors, of whom foure are of the counsell for the more secret affaires of the state, and after them the Camarligh, or Chamberlaine treasurer for the common treasurie. But in this there is a notable difference, betwixt the gouernment of the Grisons, and of the other Cantons of the Swislers: for that hee which can giue vnto his side, two or three of the principal officers, of any one canton of the Swislers, who are ruled by certaine great men bearing sway amongst them, may assure himselfe to haue gained the whole canton: whereas the people of the Grisons hold themselves in nothing subiect or pliant vnto their officers, if the good liking of the whole commons be not gained; as I haue seene by the letters of the bishop of Bayonne, ambassadour for the French king: and afterward by Maister *Bellieure* ambassadour also, and a man of good vnderstanding in matters of state, hauing the same charge, gaue the king to vnderstand, in the moneth of May 1555, how that the ambassadour of Spaine had almost caused all the companies of the Grisons to reuolt, insomuch that in assemble of the Cade, there were moe voyces for Spaine, than for Fraunce. And after that how that they of the Comminaltie of Liguedine, hauing not receiued the money promised them by the Spaniards, laid hand vpon the Spanish pensioners amongst them, and putting them to torture, afterward condemned them in a fine of ten thousand crownes to be by them paid into the common treasure. Wherein the French ambassadour so well bare himselfe, that notwithstanding the Spanish practise, they within two moneths after, together with the rest of the cantons of the Swislers sent 27 ambassadours into Fraunce, to renew and confirme their former alliances.

These examples of popular cities we haue set downe, that thereby the force and nature of popular states and Commonweales might the better be vnderstood: Wherefore let vs then conclude; That to be a popular State or Commonweale wherein the greater part of the people haue the soueraigntie; whether their voices be giuen by poll, by tribes, companies, parishes, or communities. And yet *Aristotle* writeth vnto the contrarie: We must not saith he, according to the common opinion iudge the estate popular, where the greater part of the people haue the soueraigntie: And afterward for example bringeth forth xiiij. hundred citisens in a citie, of whom a thousand of the better & richer sort haue the soueraigntie, excluding the rest: we ought not saith he to deeme this a popular state; no more than that to be an Aristocratie, wherein the lesser part of the citisens haue the soueraigntie, being men of the poorer sort. And after that he concludeth thus: The popular estate is wherein the poorer sort of the citisens haue the soueraigntie; and an Aristocratie where the richer sort beare the rule, whether they be moe or fewer in the one or in the other much concerneth not. And by this meanes *Aristotle* to establish his owne, reiecteth the common opinion of all people: yea euen of the Philosophers and law-giuers themselves: which common receiued opinion hath alwaies beene, is, and shall be mistris in matters of state. And yet he had neither true nor probable reason to depart from the common opinion: whereas thereof ensueth a thousand intollerable and ineuitable absurdities. For so we might say that the faction of the Decemviri or ten commissioners, appointed for the correcting and amending of the euill lawes and customes of Rome, taking vpon them the soueraigntie, was a popular estate; albeit that all histories call it an Oligarchie, although they in that barenes of the Commonwealth were not chosen for their wealth, but for their

The cantons of the Swislers much ruled by their great men, but the Grisons not so.

Aristotle his opinion concerning an Aristocratical or popular Commonwealth.

A their wisdom only. And to the contrary, when the people for the maintenance of their popular estate had driven them out, a man might say that the state was then changed into an Aristocratie. So should we also say, if twelve thousand of the richer sort had the sovereignty; and but five hundred of the poorer sort were excluded, that that state were an Aristocratie. And againe to the contrary, if there were but five hundred poore gentlemen, which had the government over the rest of the richer sort, one should call such a Commonweal a popular state. For so saith *Aristotle*, calling the Commonweales of Appellonia, Thera, and Colophon popular states, wherein a few ancient verie poore families had the sovereignty over the rich. Yea he passeth on further and saith, that if the greater part of the people having the sovereignty, give the great offices and honours of their state vnto the richest or tallest of their citizens, it shall no more be a popular, but an Aristocraticke estate: which is an other foule error in matter of state, considering that to iudge of an estate, the question is not to know who haue the magistracies or offices: but only who they be which haue the sovereignty and power to place and displace the magistrats and officers, and to give lawes vnto every man.

To iudge of an estate we are not to consider who haue the magistracies or offices but who they be in whom the sovereignty resteth.

And these absurdities, and others also much greater then they, ensue hereof, in that *Aristotle* hath mistaken the manner and forme of the government of a Commonweale, for the sovereign state thereof. For as we haue before said, the state may be a pure royall Monarchie, and yet the government thereof popular: as namely if the prince give honours, offices, and preferments therein to the poore, aswell as to the rich: to the base aswell as to the noble, and so indifferently to all without respect or accepting of person. As also it may be that the state be royall, and yet the government aristocraticall: as if the prince give the honours and offices to a few of the nobilitie, or to a few of the richer sort onely, or some few of his fauorits. And to the contrary, if the people having the sovereignty, give the most honorable offices, rewards, and preferments vnto the nobilitie only, as they did in Rome, vntill the law Canuleia, the estate should be in deed popular, and yet the government Aristocraticke. So if the nobilitie, or a few of the better sort should haue the sovereignty, and yet bestow the most honorable charges and preferments vpon the poorer and baser sort, aswell as vpon the rich, without fauour or respect of persons: the state should be Aristocraticke, and yet popularly governed. But if all or the greatest part of the people having the sovereignty, shall give the honorable offices and preferments indifferently to all, without respect of person, or by lot bestow the same vpon all the citizens: a man might wel iudge that estate not only popular, but also to be most popularly governed. As was done at Athens at the request and motion of *Aristides* the just; whereby all the citizens were receiued into all the offices of the Commonweale, without respect of their wealth, contrary to the law of *Solon*, whereby it was provided, that in bestowing of honours and places of authoritie and commaund, regard also bee had vnto mens abilitie and wealth. So likewise if the nobilitie only, or some few of the richer sort should haue the sovereignty in the state, and so exclude all the rest of the people from the honorable places and preferments in the Commonweal, so to keepe them to themselves alone: one might say that estate not to be aristocraticke only, but also aristocratically governed; as wee may see in the state of Venice. But here happily some man will say, that none but my selfe is of this opinion, and that not one of the ancient, and much lesse of the moderne writers which intreat of matters of state or Commonweales, haue once touched this point. True it is that I cannot denie the same; yet this distinction neuerthelesse seemeth vnto me more then necessarie, for the good vnderstanding of the state of every common weal; if a man will not cast himselfe headlong into an infi-

That the state of a commonweale may be of one sort, and yet the government thereof of another and that quite contrary.

nite labyrinth of errors, where into we see *Aristotle* himselfe to haue fallen: mistaking the popular Commonweal for the Aristocratique: and so contrarie wise, contrarie to the common receiued opinion, yea and contrarie to common sense also: For these principles euill grounded, nothing that is firme and sure can possible be thereon built. From this error likewise is sprung the opinion of them which haue forged a forme of a Commonweale mingled of all three, which we haue for good reasons before reiected.

That the state of a Commonweal may be of one sort and the government of another, without confusion of the states.

Wherefore let vs firmly set downe and resolute that there are but three formes of Commonweales, and no more, and those simple also, and without any confused mixture one of them with another: albeit that the government be sometimes contrarie to the state: As a Monarchie is contrarie to a Democratie or popular estate; and yet neuertheless the soueraigntie may be in one onely priuce, who may popularly gouerne his estate, as I haue before said: and yet it shall not be for that a confusion of the popular estate with a Monarchie, which are states of themselves incompatible, but is well (as it were) a combyning of a Monarchie with a popular government, the most assured Monarchie that is. The like we may deeme of the Aristocratique estate, and of the popular government: which is by farre more firme and sure, then if the estate and government were both Aristocratique: the state standing almost inuiolable, when as the subiects by such a moderat kind of government are amongst themselves combyned, as also vnto the Commonweale. And albeit that the government of a Commonweale may be more or lesse popular, aristocratique, or royall, (as of tyrannies, some may be more cruell than others,) yet so it is that the state in it selfe receiue no comparison of more or lesse. For the soueraigntie is alwaies indiuisible and incommunicable in one alone, or in the lesse part of all the people, or in the greater part thereof; which are the three sorts of Commonweales by vs set downe. And as for that which we haue said, that the government may be more or lesse popular, may be deemed so to be, by the Commonweales of the Swissers, where the mountaine Cantons of Vri, Schwits, Vnderwald, Zug, Glaris, and Apensel are so popular, as that the soueraigntie of the Commonweal resteth onely in them all, so that they be fourteen years old, in so much that their chiefe magistracies & places of greatest commaund are sometime giuen even to verie Sadlers, and such other mechanical men: neither of the aforesaid Cantons is any one of them walled except Zug. The other new Cantons and Geneua, are lesse popular, gouerning themselves by certain lords, which they call the Councell, as I haue learned by Master Basse fountaine Bishop of Limoges, who long and discreetly without blame, as any one embassadour, hath to his great honour managed this charge. And albeit that the Bernoies and they of Zurich compose their Senat of diuers handy crafts men, yet they vse commonly to creat their Auoyers (or chiefe magistrats) of their most noble and auntient families: whereby they are lesse subiect vnto seditions and tumults: whereas the lords of the three Cantons of the Grisons being more popular, are also more subiect vnto seditions and sturres, the people in their assemblies being hard to be gouerned; and once moued, hard to be pleased; as the ambassadours of princes haue alwaies by experience found. For the true nature of the people is, to desire libertie without restraint of bit or bridle whatsoever: and to haue all men equall in wealth, in honour, in paines, and rewards; without regard of nobilitie, wisdom, or vertue: and as *Plutarch* saith wisely to haue all cast into lot, and euen balance, without respect or fauour of any man, then if any valiant or honourable minded of the nobilitie or richer sort shall by any meanes attempt to restrain the people so intemperatly abusing their libertie; them straight waies they do what they can to kill or to banish, and confiscating their goods, diuided the same among the poorer sort, and that

Soueraigntie alwaies by nature of itselfe indiuisible.

The popularitie of the mountaine Cantons.

The true nature of the people.

- A** that the rather, if they be rich, or seeme to aspire: Yea oft times it happeneth, that the common people putt vp with the punishment or slaughter of some one mightie man, violently breaketh out vpon the rest, and that especially if it be once come to armes, and that the nobilitie be by the force of the people onerthrowne. As it happened at the establishing of the popular estate of the Swissars, after the battell of Seinpach, where almost all the nobilitie was slaine, and the rest which were left constrained to renounce their nobilitie; and yet neuerthelesse were excluded from all honours and offices of charge in the Commonweale, except at Zürich and Berne (which is in them the lesse to be maruelled at, for that the nobilitie there, with great safetie and without force of armes, made their peace with the victorious common people, now before quite spent with ciuill warres.)
- B** Yet for all this insolencie, did the Swissers more moderately vse their popular libertie, than did in antient time the Grecians or Italians, who oftentimes would needs haue all bonds and obligations burnt or canceled: yea sometime the common people set on by such as were farre endebted, ranne vpon the creditours and rich men, robbed their houses, and enforced them to make an equall diuision of their possessions and lands, forbidding them the hauing or possessing of cattell or lands, about a certaine number or rate by them set downe: from which kind of dealing the Swissers haue alwaies abhorred. And albeit that the publike pensions of princes, and gifts of straungers, in some of the Swissers cities, are not laid vp in the common treasure, but diuided among the people in particular; in the diuision whereof hee that hath
- C** most male children hath also a greater part than the rest: yet for all that, when as they of the canton of Glaris requested of *Morlet*, the French kings ambassadour, in the yere 1550, That the priuat and extraordinarie pensions, which the greater men yearely receiued of the king, might together with the publike pension bee equally diuided amongst them all: King *Henrie* denied so to doe, and said, He would rather restraîne his bountie, than suffer his priuat liberalitie to be so at their pleasure confounded with the common. Yea that worse is, the insolent libertie of the auntient Greeke popular Commonweales, proceeded to that libertie (should I say) or rather lewd madnesse, as to banish them that were more wise and discreet than the rest for the manning of their affaires, as they did *Damon*, maister to *Pericles*: and not onely wise and discreet,
- D** but euen the most iust and vertuous also; as was *Aristides* in Athens, & *Hermodorus* at Ephesus: which what thing is it else, than to go about to pluck vp vertue it selfe by the root? But they were afraid least so great brightnesse of vertue in one great citisen or subiect, should so dazle the eyes and minds of the rest of the common people, that forgetting their libertie, they should chuse rather to liue in subiection vnto so wise and vertuous a man, than to rule theselues. Which thing they the more feared, if vnto his vertues and good parts were ioyned nobilitie, or power, or experience in great matters; who with force ioyned thereunto, might from the citisens either with their will, or against their will, extort their libertie. Whereas the nobilitie and better sort, to the contrarie make no account or reckoning of the popular state: but thinke it good reason, that he which hath the most nobilitie, wealth, vertue, or knowledge, should be also the more esteemed, respected and honoured; and that the honourable charges in the Commonweale, should of right be due vnto such men: and therefore alwaies desire and seeke to haue themselues alwaies diuided and seperated from the dregges and rascall sort of the common people. Sith therefore the princes and nobilitie so much differ from the common and base people, it is a thing impossible by any meanes to make them together equall: or being made in honors and commaund, euen to reconcile the among themselues, together with the Commonweale: and so (as they say) with one and the same brewing to moderat two so contrarie humors. Albeit that *Solon* vaunted,
- that

The beginning
of the popular
estate of the
Swissars.

The auntient
Grecians and Ita-
lians in their
popular libertie
more insolent
than were the
Swissars.

Why in popular
commonweales
they oftentimes
bannished the
most wise and
vertuous men.

The inequalitye
of the nobilitie
and of the vula-
gar or common-
people, not pos-
sible to be
brought to any
good conforming
in one and the
same state.

that if he had power to make lawes, he would make them such as should be most indifferent, both for the rich and the poore, the nobilitie and the base: which the nobilitie thought *Solon* to meane of the equalitie in Geometricall proportion; and the people of the proportion Arithmetical: whereby it came to passe, that both the states yeelding vnto him, gaue him power for the making of them lawes, and establishing of their Commonweale. But these things, as also what commodities or inconueniences attempted vpon euerie Commonweale, shall in their due places bee more at large declared: sufficeth it now with what breuitie well might be, to haue set downe the descriptions and kinds of all Commonweales, as also what is to euerie one of them proper, straunge, or common with others: and also who in euerie Commonweale hath the power of Soueraigne maiestie. Now let vs prosecute euerie part and limme, as it were, of a Commonweale, which are tied vnto the soueraigntie of the state, as members vnto the head; *viz.* the Senat, the magistrats, the officers, colleges, and corporation, and that in such order as wee haue here rehearsed them.

Finit Lib. Secundi.



THE

A



B

THE THIRD BOOKE OF OR CONCERNING A COMMONWEALE.

CHAP. I.

¶ Of a Senat, or Councell of Estate, and the power thereof.

C



Senat is a lawfull assemblie of Councillors of Estate, to giue aduise to them which haue the soueraigntie in euerie Commonweale. For so order requireth, that hauing before spoken of them which haue the power of soueraigne maiestie, and of the markes thereof, and also touched the diuersitie of Commonweales: We should now also speake of the Senat, as of the chiefe and principal part of a Commonweal, next vnto the prince. Not for that a Commonweale cannot altogether be without a Senat or Councell: for a prince

The definition
of a Senat.

may be so wise and discreet, as that he cannot find better counsell than his owne: or els hauing not whome to trust, taketh aduice neither of his owne people nor of strangers; but of himselfe alone, as we read of *Antigonus* king of Asia, and of *Lewes* the eleuenth the French king; whome the emperour *Charles* the first doubted not in that to imitat: as also of *Caius Iulius Caesar* among the Romans; who neuer spoke any thing vnto others, of the enterprises he had in hand: nor of his iourneies, no not so much as of the day of battell; and yet performed great matters, albeit that he were beset with many great and right puissant enemies: and was therefore the more redoubted, for that his designs were so close and couert, as that they were still executed before they enemy could perceiue them: who still was by that meane ouertaken, and ere hee were aware surprised. Besides that, the captaines and souldiours reposing themselves in the wisdom of such a prince or generall, were alwaies in expectation, prest, and readie euen in a moment, to performe whatsoever he should command, but with the holding vp of his hand. No otherwise than the members of a bodie well composed are alwaies readie to receiue & put into execution whatsoever reason shal commaund them, although they be no whit partakers of the concell thereof.

That a wise
prince needeth
not alwaies to
be aduised by his
counsell.
The wonderfull
secrecie of Iulius
Caesar in all his
affaires.

E

Now many haue (and that in mine opinion) without cause doubted, Whether it were better for the Commonweale to haue a most wise and vertuous prince to gouern the same without counsell; or a dull and vnfit man of himselfe for gouernment, but well prouided of a graue and wise counsell? And truly vnto the wise neither the one nor the other seemeth any thing worth. But if the prince be so wise as they suppose, as

Z

that

Secrecie in a
prince most
needfull.

that he greatly needeth not of counsell: yet the greatest point for his aduantage in **F** matters of any consequence is, to keep his designes and resolutions secret, which once laid open and so made knowne, serue no more but as mines discouered; causing oftentimes the ruine and decay of most famous cities and states. And therefore the wisest princes haue still vsed to speake and talke most of such things as they meant least. And as for an heauie headed and foolish prince, how should he be well provided of a graue and wise counsell, sith that the choice thereof dependeth of his owne will? and that in a prince there is no greater signe of wisdom, than to know well how to make choice of wise men, whose counsell he may vse and follow.

Whether it be
lesse dangerous
vnto a Com-
monweale to
haue a good
prince assisted
with euill coun-
sell, or an euill
prince directed
by good coun-
sell.

The great bene-
fit that a prince
hath by follow-
ing the good ad-
uise of his wise
counsell, and the
daungers to him
ensuing by the
rejecting thereof.

But forasmuch as the brightnesse and beautie of wisdom is so rare amongst men, and that we must with all obedience reuerence such princes as it shall please God to **G** send vs; the fairest wish that they can make is, That they may haue a graue and wise counsell. For it is not by much so dangerous to haue an euill prince and a good counsell, as it is to haue a good prince misseled by euill counsellours; as said the emperor *Alexander*. Wherefore we say, that a prince ought to follow the good aduise and counsell of his graue and wise counsellors, not onely in his more great and weightie affaires, but euen in his meane and least matters also (albeit that in truth nothing can be meane or litle, which concerneth the Commonweale) For there is nothing that giueth greater credit and authoritie vnto the lawes and commandements of a prince, a people, or state, or in any manner of Commonweale, than to cause them to passe by the aduise of a graue and wise Senat or Councell: and the rather, if it be doubtfull whe- **H** ther it be profitable or no, which the prince or state would haue done. And that of all others, *Charles* the first the French king, was woont best to doe: For hauing a purpose to driue out of his kingdome the Englishmen, who in fealtie held all the castles and townes in Aquitaine; and now provided of all things, which he thought needfull for the doing thereof, he receiued the complaints of the Frenchmen of Aquitaine (the king of England his subiects) against the English gouernours, directly contrarie vnto the treatie of Bretaigne: who for such appeales and complaints vnto the king, had vsed them euill. Vpon which occasion, whether of purpose sought for, or by chaunce offered, the king tooke hold: but yet would not vndertake the warre, without the counsel and good liking of the nobilitie and people, whose helpe he was to vse therein. Wherefore he commanded them all to be assembled vnto the parliament of Paris, pretending that he had sent for them to haue their aduise, and by their wisdom to amend what had by himselfe not altogether so wisely bene done or considered of. Which warre by that counsell decreed, prospered in his hand, and tooke good successe. But when the subiects see things done either without counsell, or contrarie to the will and decrees of the Senat or counsell, then they contemne them and set them at naught; or els fearfully and negligently do the commaunds of their princes and magistrats: of which contempt of lawes and magistrats, ensue the seditious and slanderous speeches of the people; and so at length most dangerous rebellion, or els open conspiracie against **I** the prince, drawing after it the viter subuersion of all estates. And so *Hiero* king of Sicilie was together with all his kindred and friends most cruelly slaine, for that hee so proudly and insolently contemned the Senat, nor in any thing asked the aduise thereof; by the aduise whereof (his grandfather hauing inuaded the soueraigntie) had before gouerned the state fiftie yeares and more. The same errour committed *Cesar*, not onely in the time that he was Consull, but in his dictatorship also, neuer vsing the aduise or counsell of the Senat: The principall occasion that was taken for the killing of him, being for that he vouchsafed not to rise vnto the whole bodie of the Senat (consisting of about a thousand Senators) comming at once vnto him; too arrogantly and **K** indeed

A indeede too foolishly done; not that *Cesar* was by nature or disposition so proud, but for that when he would haue risen vp vnto the Senate, he was by *Cornelius Balbus* (his flattering claw-backe, and a man of all other most inward with him) perswaded not so to doe. For which selfesame cause, also the Romans had long before slaine their first king and founder of their cirtie, and driven out their last king the proud *Tarquin*: for that both of them contemning the Senate, did all things on their owne heads and the latter of them seeking also quite to suppress the Senate, by putting of the Senatours to death: which thing was not dangerous onely vnto those princes which wee haue now spoken of, but also vnto *Lewes* the eleuenth the French king, who in nothing asked the aduice of his Counsell, but had thereby (as hee afterward confessed) brought himselfe within an inch of his vtter ruine: for which cause, hee would not that his sonne *Charles* the eight, should vnderstand any more but three words of Latine (and those, such as are razed out of the historie of *Philip Comines*;) to the end that mistrusting of his owne wisdome, he should rest himselfe vpon the graue counsell of others, and so by their aduice to mannage his affaires rather than by his owne. For it is right-certaine, that great learning in princes is often times a thing no lesse dangerous than a knife in a mad-mans hand, except he be by nature well giuen, and more vertuously instructed and brought vp. Neither is there any thing more to be feared, than great learning accompanied with iniustice, and armed with power. There was neuer yet prince lesse learned (except in deedes of armes) than *Traian*, neither any of greater knowledge than *Nero*; and yet for all that, this man had neuer his peere for crueltie, nor the other for bountie: the one of them deadly hauing the Senat, and the other in all things following the aduice thereof. Seeing therefore that a Senat is a thing so profitable in a Monarchy, and so necessarie in all Popular and Aristocraticall estates, as is in man wit and reason, without which his body cannot long gouerne it selfe, or haue at all any being: let vs first speake of the qualities requisite in Senatours or Counsellors; then what number they ought to be, and whether there ought in a Commonweale to bee more Counsells than one, and of what things they are to counsell of: and last of all, what power is to be giuen vnto the Senat or Counsell in a Commonweale.

Great learning in a prince sometimes dangerous.

D First we said the Senat to be a lawfull assemblie: which is to be vnderstood of the power which is giuen them by the prince, or soueraignie in other states, to assemble themselves in time and place to them appointed. As for the time and place when and where they are to meet, it is not much materiall, sith that the diuers occasions and opportunities of occurrents doe oft times of themselves require, and as it were point out the same. Yet is the decree of *Lycurgus* in the mean time to be commended, forbidding any pourtraitures or pictures to be in the place where the Senat shuld consult, for that the object of such things as wee behold, often times distract the phantasie, and transport reason else where, which ought wholly to be intentiue vnto that which then is to be consulted of. We said moreover in the definition of a Senat, That they should be Counsellors for the estate: to put a difference betwixt them and other counsellours and magistrats of the Commonweale, who are oftentimes called to giue their aduise vnto the counsellours of estate, yea and vnto the prince himselfe, every one according to his qualitie and vocation; and yet are not for all that counsellours for the estate, but onely vpon occasion men extraordinarie called. And as for the name and title of Senatour, it signifieth a man well stricken in yeares: as also the Greeks call the Senat *gerontes*, which sheweth well that the Greeks and Latins composed their Senats of seniors or aged men, whom our countrie men call Seigneurs, for the authoritie, reuerence, and dignitie, which hath alwaies beene giuen vnto the auntients, as vnto the wiser sort, and men of greatest experience: vpon that hope and opinion that they

Senators from whom they haue their lawfull power.

Whereof a Senatour tooke name; and that a Senate ought to consist of men well stricken in yeares.

which were elder than the rest, should also in wisdom exceed the rest. For so it is provided for, in the lawes of *Charles the great*; *Nullus per sacramentum fidelitas permittatur, nisi nobis & unicuique proprio seniori*: Let credit be given to no man upon his oath, but vnto vs and euery proper elder: whereby he meant the manumised mens patrons, rather than the Senators; as if honour and reuerence were due rather vnto the elder, than the yonger. Also by the custome of the Athenians, when the people were assembled to giue their aduice, the huiſher with a loud voice called all them that were fiftie yeares old together, to consult of that which should be good and profitable for the Commonweale. And not only the Greeks and Latins haue given this prerogative vnto the aged, to giue counsell vnto the Commonweale, but also the Ægyptians, Persians, and Hebrewes, who taught other people well and wisely to gouerne their estates. And what more diuine order would we haue than that of God? who when he would establish a counsell vnto the Israelits his people, * *Assemble vnto me* (saith he) *seauentie of the most auient of the people, wise men, and fearing God*. For albeit that a man might find a number of discreet, wise, and vertuous yong men, experimented also in the affaires of the Commonweale (a thing for all that right difficult,) yet so it is that it should yet be a thing right perilous to compose of them a Senat (which were rather to be called an assemblie of yong men) for that their counsell should not be receiued, either of the yong or of the old: for that they of like age would esteeme themselves as wise as they, and the other themselves much wiser than such yong counsellours. And in matters of state (if in any thing in the world) opinion hath no lesse, yea and oftentimes more force than the trueth it selfe. The common people thinketh, and that right well, yong men neuer, or else right seldome to excell in wisdom: but they which are such, can neither gouerne the people, nor chastice the offendours, or in the open assemblies of the people persuaide them vnto that which is good and profitable. Neither is there any thing in a Commonweale more dangerous, than the subjects to haue an euill opinion of the Counsell or magistrats which commaund ouer them: for then how shall they obey them? and if they obey them not, what issue is thereof to be expected. And therefore *Solon* forbade any yong man to be admitted into the Senat seemed he neuer so wise; which the Græcians in their owne language haue better set downe than the Latins: *οὐ καὶ ἀγρία δονοὶ γυνῶνες ἔχεν*. And *Licurgus* before him, had composed his Senat of the elder sort. And not without cause haue the lawes giuen the prerogative of honour, priuileges, and dignities vnto the Elders; for the presumption we ought to haue that they are wiser, of better vnderstanding, of more experience, and fitter to giue counsell than the yonger sort. Yet for all that, is not that graunted to all old men: no not to them which hauing before excelled in vertue and wisdom, are now growne so old and decrepit, as that their naturall forces faile them, and their braines weakned, can no longer do their dutie, but are now as men destitute of wit and iudgement, vnable longer to vse the instruments by nature giuen them to reason with, so that in them their verie mind seemeth to be with age both weak and sicke; whom *Plato* himselfe, who appointed the Elders to be keepers of his Commonweal, hath excused from any longer bearing of charges in the Commonweal, or for any more giuing of counsell. It is also said in the holie Scripture, That God hauing chosen seauentie Elders, powred vpon them abundance of wisdom: for which cause the Hebrewes call their Senators, the Sages, or wise men. And *Cicero* elegantly (as he doth all things) calleth the Senat the soule, the reason, and vnderstanding, of a Commonweale; meaning thereby to conclude, that a Commonweale can no more maintaine it selfe without a Senat, than the bodie can it selfe without a soule, or a man himselfe without reason: and that Senators should by long experience and practise be

* Dent. Cap. 1.

Youngmen by
Solon forbidden
to be admitted
into the Senat,
seemed they ne-
uer to wise.

The Senat the
soule of the com-
monweale.

able

A able and readie, to heare, consider, and resolute of the greatest affaires of the Commonweale. For whatsoever things are notably done in warre, or peace; in making of lawes, in appointing the orders and degrees of the subiects, in reforming the manners and conditions of the people; and in briebe in the whole disposing of the Commonweale, are all nothing else but the execution of such things as are by a wise counsell deuised and resolved vpon: which the Greeks for that cause called *πολιτικὴν τὴν βουλὴν*, as if nothing could be more sacred than good counsell, and the Hebrewes *חכמה*, as who should say, the most sure foundation of all things, whereupon all faire and commendable actions are built, and without which all things fall, and are turned vpside downe.

Politique wisdom euer to be ioynd with faith and justice.

B When I say a wise counsell, my meaning is that politique wisdom should bee euer ioynd with faith and justice: for it is no lesse, and I know not whether more dangerous, to haue a Senat or Counsell consisting of euill and wicked men, how wise and expert soeuer they be; than of the ignorant and foolish: for that these as they cannot much profit, so can they not much hurt the Commonweale; whereas the other by their mischieuous counsell to reuenge themselves, make no question or doubt to endanger or ouerthrow the whole state of the Commonweale, so that they onely may stand safe in the midst of the ruines thereof, yea and many times contrarie to their own conscience, stick not most earnestly to crosse their aduersaries opinions, although most profitable to the Commonweale, turning their priuat hatred vnto the common destruction: albeit that they reap no other profit thereby, then the triumph which they account themselves to haue gotten of the shame of them, whom they haue in counsell vanquished, drawing them of their owne faction as it were in a string after them.

An other sort of Senators there are also which are led neither with enuie, hatred, nor loue of any man, but with an obstinate conceit and loue of their owne opinions, from which they will not by any reason or perswasion suffer themselves to be removed, and therefore come into the Senat armed with such a force and multitude of arguments, as if they were euen there to combat with their enemies; least that they should seeme to haue erred in their discourses, or lightly to haue changed their opinions.

A Senatour to be too much conceited of his owne opinion; a thing vnto the Commonweale dangerous.

D And that worse is, such strong conceited men, account it a great shame to them, to agree with any other man in opinion; but thinke themselves to haue most brauely acquitted themselves, if as when men driue but one naile with another, they also shall obtrude one opinion to another: than which I cannot tell whether any thing can be worse, being a thing no lesse to be shunned, than a rocke in the deepe sea. But as a wise maister in a wrought sea, if he cannot by reason of the tempest in safetie put his ship into the desired port, yeeldeth then vnto the wind, and taketh in all his sailes, lest otherwise carried away by force of tempest he suffer shipwracke: and so trieth it out, vntill the sea be againe calmed, and more fauourable winds arise: Euen so the irremouable resolution of a Councillor, in consultations of matters of state, was neuer of wise men commended; but alwaies deemed as a thing ioynd not onely with a certaine obstinacie, but also arrogancie of mind: Whereas to the contrarie, sometimes to change a mans opinion, is not onely commendable, but also wholsome and profitable vnto the Commonweale: and according to the new occurrents of time, to apply also the deuises of new counsels: sometime with the agreeing voices, approving the opinion euen of the more ignorant and simple sort. And therefore Sir Thomas Moore in the Vtopian Commonweale by him deuised, wisely set downe, That nothing should be disputed or reasoned vpon, the same day it was propounded, but to be still referued vnto the next assembly of the Senat: to the end, that he which had rashly and vnadvisedly deliuered his opinion, should not afterwarde enforce himselfe to maintaine the same, rather

ther than to yeeld to reason.

The dutie of a
wise Senator.

Learning neces-
sarie for a Sena-
tor, but vpright
integritie more.

That a Councel-
lor of estate
ought not to be
pensionar to
another prince.

Out of doores
with the priests.

Wherefore it becometh a wise Senator, euen in the entrance of the Senat, to lay downe all fauour towards his friends, all hatred towards his enemies, and all high conceite of himselfe; ayming at no other end, but to the aduancement of the glorie of God, and the welfare of the Commonweale. Wherein the manner of the Lacedemonians was to be commended, who were so readie to defend whatsoeuer was once decreed for the good of the Commonweale, as that they which had before impugned the same, would now so conforme themselves for the establishing thereof, as that they would themselves refell what they had before to the contrarie commended: and all because it was not lawfull for them to dispute of the lawes once established by the Senat: which manner of custome the Achaens and Florentine Commonweales, afterwards borrowed from the Lacedemonians. And albeit that learning be alwaies necessarie for a Senat or Councillor, especially the knowledge of antiquitie, and of the estates of Commonweales: as also to be seene in the lawes of his owne country, which he ought not to be altogether ignorant of, yet is a sound iudgement ioyned with faith iustice, and integritie more necessarie: by meanes whereof he may easily persuade any thing without much eloquence. But about all things a Senator must beware that hee suffer not himselfe to be corrupted with the bountie of forren princes: neither bee beholden to any forren lord or prince, for any thing that he holdeth of him, whether it be by fealtie and homage, by mutuall obligation, or by pension, which hee receiue: which although it be a thing most dangerous in a Commonweale, and ought therefore to be capitall: yet for all that there is nothing than that more common in the Councell of princes. Except in the citie of Venice, which hath a Senat so free from this kind of base corruption, as that euen for that cause their priests (bee they neuer so free or nobly borne) out from comming into the Councell of state; for that they are thought to be sworne to doe nothing against the commoditie or profit of the bishop of Rome. Whereupon it is, that commonly the citisens before the giuing of their voyces, crie out aloud * *Fora i Preti*. And namely they banished *Hermolaus Barbarus* their ambassadour vnto the pope; as they did not long ago cardinall *Mule*, their ambassadour vnto him also, for that they had of him receiued the cardinals hat, without leaue from the Seignurie. But I find, that in this realme there haue bene thirtie fiue chauncellors, which haue bene cardinals or bishop at least: and so in England the like. And in Polonia, where the archbishop of Gnesne is by inheritance alwaies chancellour of the realme: the kings of that country haue bene glad to make a lay man their vicechauncellor, by no oath bound vnto the bishop of Rome. As for pensions giuen by straungers vnto the minions or ambassadors of other princes, it is a thing so ordinarie, as that it is growne into a verie custome. Yea Mounfier *Cotignac* the French ambassadour into Turkie, was so bold as to presume to marrie a Greeke gentlewoman, without making of the king at all acquainted therewith. And not long after, another also at the instigation of *Mhemet Bassa*, and the duke of Naxo, would likewise haue married the prince of Valachia his sister: which poore prince for refusing to giue his consent thereunto, which he for feare had before graunted, was by the Bassa thrust out of his estate, and *Stephen Bathor* (who now gouerneth the kingdome of Polonia) placed in his stead. All which, with other such like enterprises, are dangerous in an estate, and therefore in a well ordered Commonweale, in no wise to be suffered. And these vnto me seeme to be the chiefe qualities and ornaments of a good Councillour of Estate.

But beside these, in many Commonweales nobilitie of birth is alwaies in a Senator required; as at Venice, Rhaguse, and Nuremberg: and amongst the Polonians it was
by

A by *Sigismundus Augustus*, in the yeare 1550 by law provided, That no man should be chosen a Senator, except he were nobly descended, by the fathers side at least, & had also borne armes. In other places choyce was made of them by their wealth, as at Genes, and in auncient time in Athens by the lawes of *Solon*: and so almost in all other auncient Commonweales. And namely *Augustus* the emperour, would not that a Roman Senator of his time should be lesse worth than thirtie thousand crownes, supplying of his owne bountie what the wise Senators being poorer wanted: not that it was so necessarie vnto their Councell, but that so they might haue wherewith to maintaine their estate, answerable vnto their calling: as also least the rest proud of their wealth, should contemne the other which were poorer, as commonly it falleth out in the Aristocratique estate, where the Senator is chosen by his wealth. And by the auncient order of the Romans also, no man could be made a Senator, except he had before borne some honourable place or charge in the Commonweale. And therefore the Censors from five yeares to five yeares, registred in the roll of the Senat, all them which had borne any great or honourable office or place in the Commonweale; *viz.* such as had bene Consuls, Prætors, Ædiles, or at least Quæstors. And for that in the ouerthrow of *Marius* 90 Senators were slaine; *Sylla* created Dictator, to supply the order of the Senators, which he fauoured, created twentie Quæstors, and *Cæsar* fortie, who at the same time should be made Senators, with power also to giue voyces, which before was not lawfull, vntill they had by the Censors bene nominated and registred. Which indeed is a laudable custome, and in many well ordered Commonweales at this present obserued. As in Polonia none is receiued to be a Senator, which is not a Palatine, a Bishop, a Castellan, or Captaine; or else before hath bene employed in some honourable ambassage, or bene generall of an armie. Neither hath any man place in the Great Turkes Diuano or Councell, but the foure Visier Bassaes, the two Cadiliskuiers or Chauncellors, and the twelue Beglerbeks, gouernours of great provinces.

Nobility of birth
and also wealth
to be in a Sena-
tor required.

D But whereas we haue before said, that Senators are to be chosen out of such as haue before borne some honourable place or office in the Commonweale: that concerneth not them which shamefully buy their offices, neither the Commonweale wherein honours and offices are bought for money: for those vertues which we said to bee required in a Senator; namely iustice, faith, integritie, wisdom, experience, and knowledge in the lawes both of God and man, are things so sacred and diuine, as that they cannot for any reward or money be bought. Now that a Senator should by the Senat be examined or tried, is a new and vnwonted thing: as men whome either the Censors, or the other offices and honours by them before obtained, had sufficiently alreadie tried. Yet in the time of the Gothes, the Commonweale being by them chaunged, we read it to haue bene done: For so saith *Theodoricus*, with *Castodore*, *Admittendos in Senatum examinare cogit sollicitus honor Senatus*, The carefull care we haue of the honour of the Senat, causeth vs to examine such as are to be admitted into the Senat.

E As for the number of Senators it cannot be great, considering the perfection requisite in a Counsellour of estate. True it is, that in popular and aristocratique Commonweales, to auoid seditions, and to feede the enraged famine of the ambitious, which haue part in the soueraignetie: they are oft times enforced to augment the number of the Senatours; as in Athens by *Solons* law, they by lot euery yeare made choice of foure hundred Senatours; whereunto it pleased them afterwarde to adde another hundred, that so fifty might by lot yearly bee drawne out of euery one of the ten tribes: vnto whom they ioyned also another hundred, to make vp the full number of 600. After that they had vnto the ten tribes ioyned two others, namely the tribes of

The number of
Senators com-
monly more in an
Aristocratique
or popular Com-
monweale, than
in a Monarchie.

Antigonus and *Demetrius*, albeit that in the time of *Pericles*, there were not in the citie about 13 thousand citisens, and 20 thousand in the time of *Demosthenes*. For which cause (as I haue said) *Plato* in his popular Commonweale: by him let downe, appointeth the Senate to consist of an hundred threescore and eight of the better and wiser sort, which was the thirtieth part of 3040 citisens the full number of them, of whom he would haue his Commonweale to stand. And in like case, *Romulus* tooke the thirtieth part of his subjects to make the first Roman Senate of, choosing out of 3000, (the whole number that then was of the citisens) an hundred, and them also by him chosen not by lot, but by discretion, euen of the nobler sort of his people: viz. such as whose auncestours had neuer serued as slaues. But afterward, the Sabins being according to the league receiued into the citie, hee added vnto the former number another hundred; vnto whom, after the kings driuen out, *Brutus* also put to an hundred more, which number of three hundred Senatours, so continued by the space of almost foure hundred yeares, without increasing or diminishing. But in the time of *Cicero*, it is manifest that there were about five hundred, by that he writeth foure hundred and fiftene Senatours, to haue giuen voices when *Pub. Claudius*, who was afterwards tribune, was brought in question for hauing polluted the sacrifices of *Bona Dea*, by committing of adultery with *Pompeia*: at which time, when the Senatours were not constrained to be present in the Senate, no man can doubt, but that many of them then dispersed into all the prouinces of the Roman empire, or otherwise busied with their owne affaires, or letted with age and sicknesse, were then also absent. And after that, *Cesar* to haue more beholden vnto him, and for the better establishing of his owne gouernement, augmented the number of the Senatours vnto a thousand, chusing into that honourable order, not onely citisens of all sorts, but euen Frenchmen and other strangers also, namely *Lu. Licinius* the Barber, as saith *Acron*. But *Augustus* (after the Commonweale againe pacified) seeing the danger of so great a number of Senatours, brought them to the number of sixe hundred, with purpose to haue brought them also to the antient number of three hundred, which was not much more then the ten thousand part of the whole number of the citisens, being then almost infinite.

Of whom it is fittest to make choice for Senatours in an Aristocraticke or popular Commonweale.

Wherefore the number of Senatours is not to bee appointed, according to the multitude of the people, neither to serue the ambitious desire of the ignorant; and much lesse for the drawing of money from them, but onely for the respect of the vertue and wisdom of them which haue deserued the place; or if it be not possible otherwise to satisfie the ambition of them, which haue part and interest in the estate of popular and aristocraticke Commonweales, but that of necessitie the gate of the Senate must bee opened vnto the multitude, that it be yet so ordered, that none should therein haue deliberative voices, but such as had borne the greatest offices and charges in the state: as in the Cretensian popular Commonweale, all the citisens had free access and entrance into the Senate, and there might franke and freely deliver their opinions, but not with authoritie to determine any thing, that power being still reserued vnto them onely which then were, or had before bene the great magistrates. And in the Senate of the *Achaans*, none but the generall and the ten *Dimiurgi*, had power to determine of such things as were in counsell propounded. Howbeit a wise lawgiuer will neuer goe so farre, if hee may otherwise auoid the popular sedition: for beside the manifest danger, which is for reuealing of counsell communicated to so many persons: it giueth also occasion vnto the factious for troubling of the state, if they which haue the power to determine and resolute vpon matters, shall in opinion differ from them which haue but voices consultative; which indeede are accounted as nothing: for preuenting of which dangers, both the one and the other, the antient Greekes in their Commonweales

The danger of hauing many Senatours.

weales

A weales, still created a counsell apart, of the graueſt and wiſeſt of their Senators (whom they called *πρόβουλοι* and *προσηλῆτοι*) to conſult of the more ſecret and vrgent matters of ſtate; as alſo by themſelues to diſpoſe of the greateſt affaires of the Commonweale, and to conſider what thing were to be conſulted of in the open Senat, or publickly to be propounded vnto the people. Beſides that, what an hard matter it was of ſuch a multitude of Senatours, to aſſemble ſo many as were requiſite, and to make them to agree when they were aſſembled; the ſtate in the meane time ſtanding in danger & the oportunitie for the well manning of matters paſſing. The Senators office amongſt the Romans was moſt glorious and full of honour; and yet could *Augustus* the emperour neuer bring to paſſe, that the Senators ſhould be preſent at the ordinarie Senat, which was holden the calends or ides of euerie moneth at the fartheſt; albeit that he ſet great fines vpon them that were abſent, and gaue not their aſſiſtance: which grew ſo heauie vpon the offenders, as that he was glad to take of them ſo offending euerie fiſt man by lot. And *Rufius Capio* the rather to inuite them to that their dutie, by his laſt will and teſtament left a certaine ſumme of money to them that came into the Senat. For it was requiſit that there ſhould be fiftie Senators at the leaſt for the making of any decree, and oftentimes an hundred, or two hundred, yea and ſometimes foure hundred, which was two third parts of ſixtie Senators; as in corporations and colledges the manner is. Howbeit *Augustus* the emperour at length taking away the neceſſitie of ſo great a number, appointed two hundred to be ſufficient, beeing two thirds of three hundred; which was the lawfull number of the Senators appointed by *Brutus*. Moreouer the Senat was not ordinarily aſſembled but three times a moneth; and if it pleaſed not the Conſull (without whole com mandement the Senat might not aſſemble it ſelfe) or the greateſt magiſtrat in the abſence of the Conſull, ſometime an whole yeare paſſed without calling together of the Senat: as *Cæſar* did in his firſt Conſulſhip, hauing the Senat bent againſt him; and yet in the meane time by prodigall bountie cauſed euen what he would to be decreed by the people. Whereas *Solon* had much better provided for the matter among the Athenians, hauing beſide the ordinarie Senat of 400, euerie yeare to be changed, appointed alſo a priuie and perpetuall Councell of the Areopagi, conſiſting of threſcore of the wiſeſt and graueſt ſort of the

D citiſens, men without reproach, who by all the degrees of honour were riſen to haue the manning of all the moſt ſecret affaires of the ſtate, and to foreſee that in time of daunger the Commonwealth ſhould take no harme. Of which councell how great the need was, was then well vnderſtood, when as *Pericles* to gaine the fauour of the common ſort, had taken away the authoritie from the Areopagits, and tranſlated the ſame vnto the people: for ſhortly after, the ſtate of that Commonwealth ſore ſhaken both with forren and domeſticall warres, began forthwith to decline and decay. Wee find alſo, that the *Ætolians*, beſide their great Councell, which they called *Panætolium*, had alſo their priuie Councell choſen of the graueſt and wiſeſt men amongſt them; of whome *Linie* ſpeaking, ſaith, *Sanctius eſt apud Ætolos conſilium eorum quos apocloets appellant*, There is among the *Ætolians* a more ſacred (or priuie) Councell, of them whom they call *apocletos*: and immediatly after, *Arcanum hoc gentis Conſilium*, This is the ſecret Councell of the nation: Whereas before he had ſaid, *Legibus Ætolorum cauebatur, ne de pace belloue, niſi in Panætolio & Pilaico Conſilio ageretur*, It was provided by the lawes of the *Ætolians*, that nothing ſhould be entreated of concerning peace or warre, but in their Panætolio, or Pilaican Councell. Wee read alſo, that the popular Commonwealth of the Carthaginenſians, beſide their Senat of foure hundred Senators, had alſo a particullar or priuie Councell of thirtie Senators, men of greateſt experience in their publicke affaires and matters of ſtate: Of whome *Linie* thus ſaith,

The counſel of the Areopagi in Athens.

* Select counſellours.

The counſel of the Carthaginenſians.

Cartha-

Carthaginenses xxx legatos seniorum principes ad pacem petendam mittunt: id erat sanctius apud eos Consilium, maximaque ad Senatum regendum vis, The Carthaginensians (saith he) send thirtie ambassadors, the princes of their elders to sue for peace: and that was the more sacred Councell with them, and the greater power for the ruling of the Senat: which manner of Councell the Romans wanted. And therefore *Linie* wondereth (as at a right strange thing) that the ambassadors of Greece and Asia, which came to Rome, could of so great a number of Senators vnderstand nothing of that which king *Eumenes* then plotted in the full Senat, against *Perseus* king of Macedon, *Eo silentio curia clausa erat,* The court (saith he) was with such silence shut vp: Whereby he sufficiently sheweth, that in his time, as also long before that, nothing was done or agreed vpon in the Senat, which still was not by one or other of so great a number reuealed. For which cause the Senators themselves sometimes were constrained to become clarkes and secretaries in the secret affaires of the state, and to take of euerie man an oath, not to reueale any such thing as was in the Senat decreed, vntill such time as it was put in execution: For as yet no capitall punishment was appointed for such as shuld reueale or bewray the secret council of princes. And indeed how could any thing there be kept secret, where five or 600 Senators were priue to all that was done in the Senat, beside the clarks and secretaries for the state? When as also the yong Senators children, before the time of *Papirius Prætextatus* might come into the Senat, & carrie the news of such things as were there done, vnto their mothers. *Augustus* was the first, who out of the Senat made choice of some few of the wiser sort to be of his priuy councel, without giuing the rest of the Senat to vnderstand, that he would with them resolute of the most important and secret affaires of state, but onely to haue their aduise concerning such things as were to be afterward propounded in the open assemblie of the Senat. Immediately after whose death, *Tiberius* the emperour requested of the Senat, to haue twentie Senators appointed him, with whome he might (as he would haue them to beleue) consult of such things as the Senat was further to be moued of. Whose example the wiser sort of the emperours afterwards followed; namely *Galla*, *Traian*, *Adrian*, *Marcus Aurelius*, and *Alexander Seuerus*: of whome *Lampridius* speaking, He neuer (saith he) made decree without the aduise of twentie lawyers, and diuers other of the Senators, (men of great evidently and vnderstanding in matters of state) euen to the number of fiftie, to the end there might be no fewer than were necessarie for the making of a decree of the Senat. Whereby it evidently appeareth, that in that priuat Councell of fiftie Senators, with the prince, were the greatest matters dispatched; and that it was not onely to consult of that which was to be in the Senat propounded, but euen to resolute and determine of the most secret and important affaires of the state, and so by little and little to draw them from the Senat, vnto the more priuat council of the prince. By which meanes was also provided for another difficultie (otherwise in a Monarchie ineuitable) which is the multitude of Senators, which could not still follow the prince; vnto whome for all that his councell ought to be alwaies assistant, especially in a Monarchie, where the prince is to visit diuers his prouinces: or is himselfe in person busied in his warres. For which cause and no other, the auntient diuines and poets, haue faigned *Pallas* alwaies to sit on the right hand of *Iupiter*, but not *Iupiter* on the right hand of *Pallas*: to giue vs thereby to vnderstand, That the Councell ought alwaies to be present with the prince, but not the prince to be tied to the place where the Councell is resident: which were a thing not onely not agreeable with the maiestie of a soueraigne prince, but also impossible. And albeit that there bee many things in euerie Commonweale dispatched by the priue Councell, wherewith it is not needfull either the people or the rest of the nobilitie to be made acquainted: yet so

Augustus the first
in Rome who out
of the whol body
of the Senate
made choice of
some fewe of the
wiser sort, to be of
his priue coun-
sels

A it is, that in a Monarchie it is expedient and requisite that the prince should himselfe vnderstand them: or at leastwise that euerie man should thinke that he so doth, so to giue the greater authoritie and credit vnto such things as are by the Councell decreed, and that the subiects should not complaine and say, *The king vnderstandeth not hereof*. And for this cause the Grand Signior of the Turkes hath alwaies a lattise or grate, opening into the Diuano, or chamber wherein his Councell sitteth, to the intent to keepe his Bassaes and them of his councell in awe; whilest they thinke him their prince alwaies to see them, and to obserue their proceedings and doings.

But it may be (may some man say) that a Commonweale may be so little, and men of experience in it so few in number, as that not a Senat, but euen such a priuie Councell as we spake of, cannot therein be made. In which case of so strait a Commonweale, it is not needfull to diuide the Senat apart from the priuie Councell. As in the Commonweale of the Pharsalians (which was within most narrow bounds shut vp) there were but twentie persons which had the soueraigntie, who in that state serued for the nobilitie, the Senat, and priuie Councell. And yet neuerthelesse in the Lacedemonian Commonweale alwaies both before and after the conquest of Greece, there were but thirtie lords, both for the state and the Senat: and yet out of this number of thirtie, they made choice but of twelue for the manning of the secret affaires of their state, as we read in *Xenophon*: establishing the same forme of gouernment in Athens also, where they deputed thirtie lords for the gouernment of that state, as they did in all the rest of the cities of Greece, except some little ones, ouer whome *Lyfander* placed ten chiefe men, without any other Senat or priuie Councell. And the reason was, for that they had resolved to chaunge all the popular states of Greece, into Aristocracies; which they could not haue done in the lesser townes, if they should in them haue erected a seignorie, a Senat, and a priuie Councell: But for the present there is almost no Commonweale, be it Popular or Aristocratique, which hath not a Senat and particular or priuat Councell: yea and oftentimes beside both them, a Triumvirat of some few, for the manning of the more secret affaires of state, and that especially in a Monarchy. For so *Augustus* the emperour (albeit that he surpassed all the rest that came after him, both in wisdom, and happinesse) beside the Senat, which he had filled with 600 Senators, and the priuat councell of twentie select men, had also another neerer and more inward councell of *Mecenas* and *Agrippa*, with whome he resolved of his highest affaires, calling vnto him none but them two after the victorie of Actium, to resolve with, Whether he should still hold, or discharge himself of the empire. So *Iulius Caesar*, had none but *Q. Pedius*, and *Cornelius Balbus* of his most inward councell, vnto whom also he gaue his manner of writing in secret character, for them the better to vnderstand his secrets thereby. So *Cassiodorus* speaking of the secrets of princes, saith, *Arduum nimis est principis meruisse secretum*, Too high a thing it is (saith he) to haue deserued to be of the princes priuie. We see in like case, that the court of the parliament of Paris, was the auntient Senat of the realme of Fraunce: but when it tooke pleasure in deciding of ciuill controuersies, nor could not well bee remoued from the citie; the kings appointed another councell, which for that it handled matters of greatest importance, in the time of *Charles* the seuenth, was called the Great Councell: which when it was also entangled with deciding of extraordinarie suits and controuersies, by the lawes of *Charles* the eight, and much more by the lawes of king *Lewes* the xij, who appointed a court of twentie judges; king *Francis* the elder remoued that Great Councell from meddling with the secret affaires of state, hauing got vnto himselfe another councell of certaine select princes his friends: which of the Latines is called; The Familiar Councell, and of our countrey men, The princes priuat Councell. But *Fran-*

In small Commonweales the priuie Councell is not to be diuided from the Senat.

Mecenas and *Agrippa* the onely men with whom *Augustus* the emperour resorted of his greatest affaires.

Diuers counsels at diuers times erected in France for matters of state.

cis being dead, *Henrie* his sonne got another counsell also : which for that it consisted of few, was called the narrow or strait Counsell. But at last, when that Familiar or priuat Counsell, was thought to exceed also with the multitude of Counsellors, *Henrie* the third, the sonne of *Henrie* ordained another Counsell, which for that it was only to consult of matters concerning the state of the Commonweale, and not of suits and controuerfies, was called the Counsell for the State. Beside these, it was thought meet that there should also be a more secret or chamber Counsell, wherein the king rising from his bed, should confirme or reiect such things as were by the Counsell decreed: there are princes letters opened, ambassadors reported, and messages deliuered. There is also apart another Counsell of the Finances instituted by *Henrie* the second, and by little and little taken from the auditors, wherein are alsistant the intendants and secretaries of estate of the Finances, and the treasurer for the common treasure. Beside all which princes haue alwaies had a more strait Council, of two or three of their most inward and faithfull friends; who so highly stand in the princes fauour, not so much for their youth or person, as for their wisdom and vertue. As for the chamber Counsell whereof we spoke, it consisteth but of a few, and albeit that by the decree of *Charles* the ninth, made in Nouember, in the yere 1563, it is in the first article expressed, that so soone as the king was vp, all the princes and the counsell might come into the chamber, yet was not that his decree therein obserued or kept.

Seauen counsels
in Spaine.

Which pluralitie and diuersitie of Councils in the kingdome of Fraunce, ought not to seeme straunge, seeing that in Spaine there be seuen, beside the strict and inward Counsell, which are alwaies in diuers chambers neere vnto the king, and yet within the compasse of the same house or lodging; to the intent, that the king going from one of them to the other, may the better be enformed of his affaires: as namely the counsell of Spaine, the counsell of the Indies, the counsell of Italie, and the counsell of the Low countries, the counsell for the wartes, the counsell for the order of Saint *John*, and the Inquisition. Now if any man there be, that thinke the greatnesse of that kingdome (than which neuer yet was any greater) to require so many counsels: I denie it not, but yet so he may see also in Venice, which hath no verie great territory, foure counsels, beside the Senat and Great Counsell: *viz.* the counsell of the Sages for matters at sea, the counsell of the Sages for matters at land, the council of the Decemviri, or ten men, and the counsell of the Septemviri, or seuen men; where the duke maketh the seuenth man, which they cal the Seignorie, when it is ioyned with the counsell of the ten men, and the three presidents of the fortie, beside the Senat of sixtie; which with the magistrats may come to the number of six score. And what then should ler, but that where there be but few men worthy to be of counsell for the state, but that the Senat may be made right little, and the priue counsell lesse, and yet diuided from the Senat also. The state of the Rhagusians is but strait, & comprised almost within the same bounds, wherewith the wals of the citie are enclosed, and yet the Senat consisteth of threescore. In the citie of Nuremberg is a Senat of twentie six Senators, and a priue counsell of thirteene, beside another counsell of the seuen Bourgomasters. The Canton of Schwits is the least of all the Cantons, and yet for all that beside the Senat of fortie fve persons, it hath a priue counsell of seuen, of whome the Aman is chiefe. Which selfe same forme of counsell is also kept in the canton of Vri. As for the cantons of Zurich, Berne, Schaffuse, Basill, Soleurre, Friburg, and Lucerne, they haue alwaies beside the Great Counsell, a little counsell also. The Great Counsell of Berne consisteth of two hundred Senators; and the little of twentie six: At Lucerne of an hundred, and the little of twentie eight: At Saint Gal also the Great Counsell is of sixtie six, and the little of twentie foure: At Coiré the Senat is of thirtie, and the priue counsell

Diuers counsels
in Venice.

The counsels of
the Cantons of
the Swislers.

A counsell of fifteene. And without going so farre, it is well knowne, that the state of Geneva is enclosed within the compasse and circuit of a mile, yet for all that beside the counsell of two hundred, it hath a Senat of sixtie; and after that a priuie counsell of twentie fiue. Neither is there any canton so little, (except the three cantons of the Grisons, gouerned by the common popularitie) which hath not a priuie counsell beside the Senat, wherein some haue three, and some haue foure. As in the canton of Bassill; where the secret affaires of state are mannaged by two Bourgomaisters, and two other chiefe men of their colleges, whom they call Zunfft maisters. And in like case at Berne the two Auoyers, and foure ensigne bearers, haue the ordering of all the secret businesse of their state; as hath the priuie counsell in a Monarchie. And namely in the diets and assemblies of the thirteene cantons, there is none but the priuie counsell of the ambassadours, which make their decrees, and direct their commissions, concerning their common affaires: I say then that it is a thing most profitable in euerie Commonweale, to haue at the least one priuie counsell beside the Senat, sith that the auntient rulers of both the Greekes and Latines haue so taught vs, reason so shewed vs, and experience therein confirmed vs.

The counsell of Geneva.

A priuie counsell besides the Senat, necessarie in euerie Commonweale.

But there is a notable difference betwixt the Senat of a popular or Aristocratique Commonweal, and the Senat of a Monarchie: for in them the diuises and consultations are had in the secret or priuie counsell; but the resolutions and decrees are all made in the great Counsell, or in the assemblie of the States, or of the people, if the matter be such as is to be vnto them published: whereas in a Monarchie the manner of proceeding is quite contrarie, wherein nothing is communicated or imparted to the people, or the nobilitie, but such things as seeme vnto the Senat doubtfull, or being of greater importance, are still referred vnto the priuie Counsell; and if the matter concerne the soueraignie, it is reserued vnto the iudgement of the soueraigne prince onely. And albeit that the Senat or Counsell in a Monarchie seeme to do all the rest of it selfe, yet still we see all to depend of the princes commaund. And this which we haue said concerning the manner of consultation, is almost no where better put in practise then in Venice: where if any difficultie arise in the counsell of the sages, it is commonly discided by ioining of the Decemviri vnto them, (and therefore vnto such decrees as are by them made are ioined *Con la Giunta*) and if they cannot so agree, but still rest among themselues in opinion diuided, they call vnto them the Septemviri or counsell of seauen: but if so nothing can be decreed for the diuersitie of opinions, the matter is then propounded in open Senat: And sometimes also (although but seldome) if the matter be of such consequence, or so much concerne the maiestie of the State, as that the authoritie of the Senat seemeth not to be thereunto sufficient, or that the Senat be thereupon diuided, it is propounded in the great counsell of all the gentlement of Venice, where it taketh the last and finall resolution; which as *Aristotle* writeth, was also the auntient custome of the Carthaginensians, where if the Senat could not agree, the difference was disputed, debated, and discided by the people.

The manner of consultation in the Senat of a popular or Aristocratique estate, and in the Senat of a Monarchie much different.

The manner of the proceeding in their consultations in matters of state, in Venice.

E Now all this differing of resoluing and determining, proceedeth from the diuersitie of the soueraignie, and of them which haue the mannaging of the gouernment: for what the Senat decreeth in an Aristocratique, or popular Commonweal, that the nobilitie, or people ratifieth and commaundeth if the matter so require: contrarie to that we see to be done in a Monarchie, where the wiser the prince thinketh himselfe, the lesse he vseth the counsell of the Senat: (albeit that he oft times aske the aduise thereof, to make his doings the more acceptable, or for the easing of himselfe, committeth vnto them commissions for extraordinarie justice, or the iudgement of inextricable matters and causes of appeales) especially if the Senat be so great as that the prince by publi-

The policie of
the Romain em-
perours to drawe
the Senat from
matters of state
by busying it
with other ex-
traordinarie
causes.

The Senators of
Rome as Sena-
tors no iudges,
but when they
were thereunto
extraordinarie
by commission
appoynted.

The court of Pa-
ris sometime the
auntient Senat of
Fraunce by the
king forbidden
to deale with
matters of state.

shing of his secrets to so many persons, shall not come to the point of his designs. By this meane *Tiberius* the Emperour sought to kepe the Senat busied in disciding of great and extraordinarie causes, to make it by little and little to forget the vnderstanding of matters of state. And after him *Nero* likewise ordeyned that the Senat should haue the hearing of Appeales which before were made vnto himselfe, and that the fine for the offence set downe by the Senat should be as great, as if he had heard the cause himselfe; By this meane making of a Senat an ordinarie court and iurisdiction of Iudges: who in the time of freedome of that popular Commonweal neuer vsed to iudge, except ordinarie in conspiracies, and other such like great offences against the state: or that the people which had the hearing of many causes, had committed the vnderstanding thereof vnto the Senat. For which cause *Cicero* accusing *Verres* saith in this sort, *Quo confugient socij? quem implorabunt? ad Senatum deuenient, qui de Verre supplicium sumat? non est visitatum, non est Senatorium*: Whither shall our friends and allies flie? whom shall they aske help of? shall they come vnto the Senat, to take punishment of *Verres*? it is no thing in vse, it appertaineth not vnto the Senat. Wherein many deceiue themselves, which think that the Senat iudged, when they saw that the Senators were drawne by lot to iudge of publike and criminall causes, sometimes by themselves, sometime with the knights, by the law *Liui*, and afterwards with the knights and the Treasurers, by the law *Aurelia*: for there is great difference betwixt the bodie of the Senat, and the Senators taken in the qualitie of iudges, and betwixt the priue Counsell, and the counsellours thereof comming into the soueraigne courts to iudge. For before *Nero* the Senat neuer had so much as ordinarie iurisdiction or power to iudge of any matter; And namely *Augustus* would not that the Senat should trouble it selfe, with the iudging of the honour, or of the life of Senators, albeit that he were thereunto importuned by his friend *Mæcenas*. And albeit that *Tyberius* the emperour often times sent vnto them such causes, yet was it but extraordinarie and by way of commission; which *Adrian* the emperour afterward caused to passe into the forme of an ordinarie iurisdiction. We see in like case that *Philip* the faire, or as some others say *Philip* the long, to discharge himselfe of the Court of parliament, and easilie to take from it the dealing with the affaires of state, made it an ordinarie Court, giuing it iurisdiction, and a sitting place in Paris: which Court was in auntient time the Senate of Fraunce, and yet at this day calleth it selfe the Court of Peeres, erected by *Lewes* the yong, (according to the truer opinion) to giue counsell vnto the king; as we may see by the creation of Countie *D'Mascon* for a Peet, by king *Charles* the fift, in the yere 1359, where it is said that the king of Fraunce ordained the twelue Peers, to giue them their counsell and aide, and tearmed it selfe, as yet it doth at this present, (by way of prerogatiue of honour) the Court of patlament (without any other addition) as it is to be seene in the letters which it wrote vnto the king: whereas the other Courts of later time established, vse their particular additions; As, *The Parliament of Tholouse, of Roan, of Burdeaux, of Dion, of Gratianople, and Aquasexia*. But in the raigne of *Charles* the ix, at such time time as the Court of Paris liked not of the decree of the Senat, whereby the king in the Court of Roan was by the voices of the princes declared sufficient for the gouernment of the kingdome without a Regent, according to the law of king *Charles* the first: the king yet vnder age, aduised the court, to meddle only with the desciding of controuersies, and the equall administration of justice: for that the king his predeceffours had for that onely purpose appointed that Court, and there placed them, and not to become his tutors, or protectors of the realme, or keepers of his towne of Paris: and therefore commaunded such lawes and edicts as hee had appointed to be proclaimed in the court of Paris, to be published: wherein if any thing

A thing should be contained that seemed not to stand with right and reason, he could (as he said) be content to be thereof tould; but yet so as that after he had vnderstood the matter, if it were his pleasure to haue the law proclaimed, they should forthwith without farther reply do that they were commaunded: with which the kings edict the court was wonderfully troubled; and for that the judges were equally diuided into two opinions: the one being willing to haue the kings edict published, and the other denying the same. The Court thought good againe to aduise the king, that the court might not be enforced to allow or publish such things as should thereunto seeme vnreasonable or vniust. Wherewith the king displeated, caused his priue Counsell to be called, and by the authoritie thereof a decree to bee made the xxiiij. of September,

B whereby the parliament of Paris was forbidden once to call in question the lawes or decrees proceeding from the king concerning matters of state: which was also before by king *Francis* decreed in the yeare 1528. In like case the great Counsell which was not almost employed but in affaires of state, in the raigne of *Charles* the seauenth, and *Charles* the eight, was by little and little so filled with sutes, that *Charles* the viij. made it an ordinarie court of seauenteene counsellours; whom *Lewes* the xij. made vp xx. beside the Chauncelour, who was President thereof, (in such sort, that vnder king *Francis* there was but a President in steed of a Chauncelour) who were not imploied but in hearing of extraordinarie causes by way of commision, or remitting of the priue counsell, and ordinarily the appeales of the Prouost of the household. We se also

C the priue Counsell it selfe to be as it were brought into the forme of an ordinary court, by hearing the differences betwixt the Townes and the Parliaments, and oft times betwixt particular men, euen for small matters: to the end that such a great companie of the nobilitie, and men of marke, should be busied with some thing, hauing as it were lost the vnderstanding of the affaires of state, which can neuer sort to good end, if they be communicated to so many persons: where the wiser sort are commonly ouer ruled by the greater parr, ioining hereunto also, that it is impossible, to keepe the counsell of the state secret: or to know in such a multitude who it is that discouereth the same, nor to cast them out who are holden for suspect: Except by vsing the custome of the

D auncient Athenians, by vertue whereof the Senatours by a secret iudgement which they called *τῆς ἐκφυλλοφορίας* might with all libertie, and without displeasure condemn the blabbing Senator, or him that had defiled the honour of his estate. As in like case the Roman Censors without forme or fashion of proceffe, had accustomed to remoue the vnworthie Senators, and by that meanes to exclude them out of the Senat; except they would put themselues vpon their triall before the judges which were about the Censors, or that the people had giuen some new office, or honorable charge to him that was so removed by the Censors, or condemned by the judges. But the Romans were much to blame, both for too easie receiuing and remouing of the Senatours, and that in too great number: For *Fabius Buteo* made Dictator to supply the defect of the Senat, at one time receiued in an 177 Senatours. Whereas *Lentulus* and *Gellius* Censors at one dath remoued 64. Howbeit, it were more seemly and agreeing with the dignitie and honour of a Senat to receiue into it few, and them also chosen and culled out as pearles; than to exalt vnto so high degree of honour men worlliie and vnworthie, and afterwards to cast them downe againe with eternall infamie and dishonour, vnto whom they had before giuen their helping hands: Besides that it cannot alwaies be done without danger and sedition, or the dishonour of him that ruleth. It is foure hundred yeare since that the Priue Counsell of England, at the instance and sute of the Archbishop of Canterburie (then Chauncelour) established, there were there into but fifteene persons then chosen; neither hath it euer since passed the num-

E

The priue counsell of France almost brought into the forme of an ordinarie court by hearing of priuar and particular causes

Matters of state not without danger to be communicated vnto many.

Senatours or counsellours of estate not easily to be admitted nor without greaue cause to be againe displaced. The auncient counsell of England in number fewe.

ber of twentie; and yet by meanes of that little Counsell they haue retained their state most faire and flourishing in times both of peace and warre, as is by their histories to be seene; and by the treatie of peace made betwixt *Lewes* the ix, and *Henry* the first, king of England; which for the more assurance thereof was sworne by the Prince and the xvij priuie Counsellors: viz. one Archbishop, one Chauncelor, one Bishop, six Earls, and six other Lords, with the great Treaſurour, and a magistrat whom they call chiefe Iustice of England. Now I doubt not but that in euery Commonweale, many by vaine ambition, fauour, impudency, or corrupt briberie, in sort euen against the Prince and peoples will find meanes to enter into the sacred Senat; against which inconuenience remedie might be well provided, if we would but vse *Solons* law. For he would haue none to bee admitted into the Senat of the Areopagits, but such as had without touch, by all the degrees of honour ascended vnto the highest places and preferments of the Commonweale: for so he deemed him to be well able to hold a place in the Senat without staggering or falling, that could hold himselfe vpriight in such dangerous and slipperie wayes. And that is it for which all the auntries both Greeks and Latins, haue so highly commended the Senat of the Areopagits, composed of sixtie persons, as we read in Athens. The same manner is yet vsed among the five lesser cantons of the mountaine Swissers, that they which haue passed through all the honourable estates should continue Senators for euer: but this is not the way to haue good resolution, and yet lesse to keepe the affaires of state in secret, in that the Senators of the little cantons, which are fortie five in Zug, and an hundred sixtie foure in Appenzel, and more or lesse in the others, when question is of matters of importance, may euerie one of them bring with him into the councill two or three of the citisens, such as he liketh best of. Whereby it commeth to passe, that sometime there are foure or five hundred, part Senators, part others, assembled together into the Senat, and yet all haue deliberative voices therein. Whereas multitude is euer an enemy, vnto wise resolutions.

And thus much concerning the number of Councillors of estate: let vs now also breefly speake of them that are to propound matters in the Senat; and then of such things as are there also to bee propounded. As touching the first, men of auntient time haue alwaies had great regard vnto the qualitie of them which were to propound any thing in the Senat. For we see that to haue bene the proper charge of the greatest magistrats in Rome, whome for that cause they called Consuls: or in their absence the greatest magistrat that was in Rome (to wit, the Prator of the citie) supplied the place of the Consuls: receiuing the particular requests both of the citisens and straungers, of ambassadours from forren princes, and allies letters from the gouernours of their prouinces: which letters he read in the Senat, asked euerie mans opinion, commanded the decrees of the Senat to be written, & also dismissed the Senat. Amongst the Grecians the greatest Prator executed the same office, who among the Athenians was called ἀρχων ἐπ' ἀννμῶν; & the rest as they were created in some places πρόκλητοι & πρόβουλοι, who bare almost the same office that do the prouiditors in the comonwealth of Rhaguse, & the sages in the state of Venice: howbeit that there the three Auogadors ordinarily propounded vnto the Senat, that wherof it is to consult. In the council of the Greeks the president caused to be cried aloud by a sergeant, That if there were any person that had any thing to say concerning the good of the state, he should speake: which *Titus Liuius* speaking of the Achæans affirmeth generally of all the Greeks. But as for the Ætolians, their custome was most notable, worthy to be of all men regarded, being highly commended and approued by *Philip* men generall of the Achæan league; which was, that the president, or hee which in full councill propounded any thing

Who they be
that ought to
propound mat-
ters in the Senat
or counsel.

A notable cus-
tome of the Æe-
tolians in pro-
pounding of
matters in their
Senat.

which

A which seemed vnto himselfe good, should therein haue no voice himselfe. A great meanes to take away the practises and couert traines, which are commonly made in Popular and Aristocratique estates, where the busiest heads easily draw others to their opinions. Howbeit I cannot commend the fashion and custome of them of Genes, where none but the duke alone hath power to propound in the Senat that which pleaseth himselfe. For beside the difficultie of speaking with the duke on euerie side beset, and troubled with infinit affaires, and to lay before his eyes a thousand diuers reasons for the debating of the matter in the counsell: it is also dangerous to giue so great authoritie to one person, that he may open or keepe secret to or from the Senat, whatsoever himselfe pleaseth; it being not lawfull for any man to propound any matter but himselfe. It is also much perilous one citizen, who first deliuereth his opinion to be of such authoritie and power, as that the rest which are to speake after him, dare not freely say what indeed they thinke. And that is it for which it is wisely provided in the realm of Fraunce, that it is permitted to all them which haue accesse into the counsell (although they therein haue neither deliberatiue voice nor place) euerie man to propound his owne requests, & to aduertise the counsell of that which is profitable for the Commonwealth; to the end it may be the better provided for. And oftentimes their opinion is also thereof demanded, and then afterward the aduise of the counsellors of the estate, which in counsell haue place and deliberatiue voice, in such sort and order, as that the great lords deliuer their opinions last; to the end, that the libertie of the lesser should not be impaired by the authoritie of the greater princes or magistrats, and especially by the power of ambitious and factious men, who cannot in any case abide to be contradicted. In which course they which haue onely voyces consultatiue, make way for them which haue voyces deliberatiue: and oftentimes broach vnto the counsell good and liuely reasons: and where they in any thing erre, they are without ielousie againe by the others brought into the right. Which is a custome much more commendable than that of the Romans, where the Consull first demanded the opinion of the chiefe man in the Senat, or els of him that was appointed Consull for the yeare following. And yet neuerthelesse the contrarie was vsed before the people: for first the particular men deliuered their opinions, and after them the lesser magistrats, and last of all the greatest, to the intent that the libertie of the lesser should not be preuented by the authoritie of the greater. Ioyne hereunto also, that the ambition to speake first doth oftentimes draw after it the enuie of some, and the ielousie of others. So wee see the cruell emperours to discharge vpon the Senat, the discontentment that the people had of their cruelties, caused such things as they would haue done to bee propounded or red in the Senat: which to gaine say or seeme to dislike of was death. Which was not to demand the aduise of the Senat, but indeed most imperiously to command the same. Whereof an auntient Senator complaining saith, *Vidimus curiam elinguem, in qua dicere quod velles periculosum: quod nolles miserum esset*, We haue seene (saith hee) the court dombe, wherein to speake that thou wouldest was dangerous; and to say that thou wouldest not, was a thing right miserable: For that the emperor *Dometian*, (*unus solus censebat quod omnes sequerentur*) alone decreed what all men should follow; and commendeth *Traian* (*quod eo rogante, sententias libere dicere liceret, vinceretque sententia non prima, sed melior*) for that he propounding of matters, euerie man might freely speake his mind: and that opinion preuailed not which was first, but best. By the custome of the auntient Hebrewes, the king refrained from comming into the Senat, least any should bee contrarie vnto him, or hee to any; for so they writ in their Commentaries.

The custome of Genes discommended.

The laudable custome for the propounding of matters vsed in Fraunce.

* *Plinius innot in panegirico.*

It were also to be wished, that the Councell should sit in the morning yet fasting,

The fittest time
for counsellours
to sit in counsell

for that is not to be holden for a counsell well digested, which is done after dinner, as **F**
saith *Philip de Commines*, and especially in countries where the people are subiect vnto
wine. *Salomon* detesteth those princes, who when they ought in the morning to feed
their mind with religious contemplation of high and diuine matters, doe with full feed-
ing pamper the inordinat desire of their languishing & broken lust, & with new nour-
ishment kindle the fire of new desires: Which he in three words declareth, *Wo* (saith
he) *vnto princes which eate early*. Which is a thing so much the more to be detested, by
how much many thinke it to be the greatest brauerie, to bee well whited with wine.
For what can be more beastly than was the old maner of the Germans, who neuer vied
to consult of their greatest affaires but in midst of their cups perswaded so that euery
one of them warme with wine, should discouer the verie secret of his hart, and to be the **G**
more eloquent to persuade what they thought to bee most expedient. Which cus-
tome they haue now well changed, insomuch that euen their priuat and domesticall
contracts made when they are in drink, are to none effect or purpose, it being alone a
sufficient cause for the iudge to reuoke them being so made. Now as concerning such
things as are to be consulted of in the Senat, they depend of such occasions & affairs, as
in course of time present themselves. The antient Romans first consulted of matters
concerning their religion, as the marke and end wherat all humane actions ought both
to begin and end. There was neuer also, saith *Polybius* (he himselfe being an Atheist) a
people more deuout than this: adioining therunto moreover, That by meanes of reli-
gion they had established vnto themselves the greatest monarchy in the world. Then **H**
after matters of religion, and worship of the immortall gods, are to be entreated of the
greatest and most vrgent affaires of state, and most concerning the Commonweale, as
the making of peace or war: in both which, long delay is no lesse dangerous, than is too
hastie resolution. In which case, as in all things doubtful, the antients had a rule which
suffered no great exception, which was, That we ought not to do, neither to counsell
any thing to be done, wherof we doubt whether it be iust or iniust, profitable or hurt-
full; or if the harme that may ensue bee greater than the profit that may come of the
enterprife that is to be taken in hand: but if the harme be euident, & the profit doubtful,
or contrariwise, there is then no deliberation to be had or doubt made which to chuse. **I**
But the doubt is greater, when as that which we are to consult of, hath in show moe
& greater profits, if we can bring it to good effect, than it hath hurt if wee faile therein.
Howbeit the more wholsome opinion of the antients is to bee preferred, *viz.* That
when question is of matters of estate, things doubtfull, or subiect to the change of for-
tune, are not at al to be embraced. And therefore the subtiler sort, cause the that be more
siniple, to propound and persuade in counsell such things as seeme vnto themselves
doubtfull; to the intent that so the blame may rest vpon them, if things fall out euill: &
yet the honor redound vnto themselves if it fall out wel. Howbeit nothing ought to be
thought commendable and well done, which dependeth of the euent. For it behoueth
vs by most certaine arguments and reasons to show wherfore this or that is to be done, **K**
and not by the euent: yea it behoueth a wise man rather to feare vnfortunat euent,
than to presume of happie successe. And therefore a wise counsellor neuer resteth him-
selfe vpon the chances of fawning fortune, or vpon aduentures, but still forceth himselfe
by good and wise discourse to gather the true effects of precedent causes: albeit
that hee oft times see, the most aduenturous and rash, to be the most happie & fortu-
nat in their attempts. And therefore the antient diuines (who couered wisdom in fa-
bles) doubted not to exclude that goddesse whom they called Fortune, out of the coun-
cell of the gods; least that which should be sought for by wisdom, should seeme to
haue bene obtained by the rashnesse of fickle fortune. And yet for all that wee see no-
thing

What things are
in the Senat or
counsell of the
state to be cheif-
ly consulted of.

A good rule by
the antient well
observed in all
their consultati-
ons or matters
of state.

Things doubtful
or subiect to for-
tune, in consulta-
tion of matters
of state not to be
at al embraced.

Nothing ought
of right to be
praised by the
euent.

A thing to be more cōmended or blamed, than the good or euil end of mens actions: and so wisdome measured by the foot of fortune. But if the law condemne the souldior that fighteth with the enemy without the commaundement of his captaine, although hee carrie away the victorie; how much more dangerous ought it to be, to put the hope of counsels, & state of the Commonweal in the vncertaine hope of fortune? Besides that, such continuall aduentures do oftentimes draw after them the ruine of aduenturous princes. And therefore to auoid that nothing should be rashly or vnadvisedly decreed in the counsell, I like well the aduise of sir *Thomas Moore*, To propound the day before what was in the Senat to be resolued on the day following; to the end that such deliberations might the better be digested: provided for al that, That question be not of the particular interest of any of them which haue voice in the counsell: for in that case it is much better to resolue vpon the matter the same day, & without delay, than to attend vntil the sound iudgement of some be preuented by the subtilties of others, & that men come prepared with long traines of reasons, to reuerse that which ought of right to be concluded. For as the truth, the more naked and simple it is produced, the fairer it is; so is it most certaine, that they which disguise it by figures or colours of Rethorique, take from it the lustre and naturall beautie thereof: a thing which a man ought about all things in matters of counsell to shun. True it is, that to vse oloquence, in the assemblies of the people, and with the sweetnes of speech to delight the ears of the ignorant multitude, or with faire words to blind their eies, or with pleasing reasons to turne their minds from rage and furie to peace and quietnes, is a thing not onely commendable, but necessary also. But al these things are far to be removed from a Senat or counsell, if aduise be to be sought for or required of such Senators as we haue spoken of, that is to say of wise men. And the Lacedemonian breuitie full of good reasons, is to be vsed, that they all may haue time to speake: & that no orator hauing got the possession of speaking, shold with long discourse or speech exclude the best & wisest of the senators. And therefore by an old decree of the Arcopagits, it was not lawfull in that graue counsell, to vse either any induction or after-speech. As for the deliuering of their opinions by secret suffrages, as amongst the Venetians; or by changing of places, as amongst the Romans, I cannot greatly commend of either, but especially if the matter in consultation consist of many points, of which some are to be liked of, and other some to be reiect-
D ed: so that it is necessarie to propound euerie article or point apart, which the Latins terme *diuidere sententiam*, and so to cause the Senators to passe & repasse from one side to another. Into which difficulties the Venetians falling, are oftentimes constrained to leaue their secret voices giuen by lots, and to giue the same by word of mouth; which they vse to do, when question is of the life, fame, or fortune of any man, according to the maner of the antient Greeks & Romans; a thing which cannot by secret voices, by lot, without iniustice be done, for the infinit varietie of cases which may present themselves to be iudged vpon. Now as the Senat of a Commonweale is not bound to the certaine hearing and deciding of causes, so ought it not to trouble it selfe with intermeddling
E with the iurisdiction of the magistrats, except it be in the controuersies of the greatest magistrats, or soueraigne courts among themselves. And for this cause *Tiberius* the emperour, in the beginning of his raigne protested in the Senat, That he would not alter any thing in the course of iustice, neither haue to do with the iurisdiction of the ordinarie magistrats. And they which make a confusion of a Senat & priuie counsell, do greatly diminish the dignitie & honor thereof, for that it ought to be regarded as to confirme the princes actions, & wholly to attend the publike affairs: worke enough to busie a senat, except it be when question is of the life or honour of the greatest lords and princes, or of the punishment of cities, or other such causes of like consequence and impor-

That the Senat
ought not to in-
termedle with
the iurisdiction
of the magistrat.

tance, as may well deserue the assemblie of the Senat; as in auncient time the Roman Senat, by commission from the people, had the hearing of the treasons and conspiracies of their allies, against the state, as we see in * *Liuius*.

* *Liuius lib. 2. 6*

What power a Senat or counsell of state is of right to haue in a well ordered Commonweale.

Yet resteth the last point of our definition, that is to say, that the Senat is established to giue aduise and counsell to them which haue the soueraigntie in euerie Commonweale. To giue aduise (I say) and counsell; for that the Senat in a well ordered Commonweale, ought not to haue power to commaund, nor to direct out their mandats, neither to put into execution their aduises and consultations, but onely to make report thereof vnto them which haue the soueraigntie. Now if a man should aske, Whether there be any Commonweale wherein the Senat hath such power? It is a question but of fact: but if demand were made, whether of right it ought so to haue or not? our opinion is, that in a well ordered Commonweale it is in no wise to be suffered: for that it cannot be without impeaching of the soueraigntie, and that much lesse in a Monarchie, than in an Aristocratie, or a Popular estate. And in that the maiestie of a soueraigne prince is knowne, in that he can, and his wisdom, in that he knoweth to weigh and iudge the aduise of his counsell, and so conclude according to the resolution of the wiser part, and not of the greater.

Why magistrats and soueraigne courts haue a greater commanding power then hath a Senat or counsell of state.

Now if any man thinke it straunge or inconuenient for all other magistrats and soueraigne courts, to haue power to commaund, in their owne names to direct out their commissions, and the Senat that iudgeth of their authoritie and controuersies, to be deprived of this power: let him consider that vnto such magistrats and courts, power is giuen them euen by their institution, election, and creation, and by the charters and grants vnto them made for the limiting of their charge and power, without which neither martiall nor ciuill or domestically affaires can well be gouerned: whereas there was neuer Senat in any auncient well ordered Commonweale, which had any power to commaund by vertue of the institution thereof. So we see, that in the kingdoms of Fraunce, Spaine, and England, the priuie counsell is not erected or instituted in forme of a bodie politique or colledge; neither to haue power by the election or ordaining thereof, to order or commaund any thing, so as is necessarie for all magistrats, as we shall hereafter declare. And as for that that some will say, That the priuie counsell may disanull and reuerse the iudgements and decrees of the magistrats and soueraigne courts: and so conclude, that it is not without great authoritie and power: mine answer is, that the decrees of the counsell depend not in any thing of the counsell it selfe; but of the royall power, and by commission onely, in qualitie of extraordinarie iudges for the execution of iustice, besides that the commission and authoritie of the priuie counsell is alwayes ioyned with the person of the king. And therefore we see in a Monarchie all the decrees of the priuie counsell to carrie these words with them, *By the king in his priuie counsell*: which can do nothing if the king bee not present or at leastwise confirme the acts of his counsell. But wee haue before shewed the power of all magistrats and corporations to cease, and bee suspended in the presence of the prince. Now if the power of the Senat be nothing in the absence of the prince, and much lesse in his presence, where then is the Senats power? And if the Senat cannot of it selfe decide and determine a controuersie; how can it then dispose of such things as belong vnto the state of the Commonweale? and that is it wherfore we see such things as are decreed vpon by the Senat, to be still referred vnto the prince: or if they bee of lesse importance, yet to be still confirmed with the princes authoritie, hand, and seale. Which is no new matter, but of auncient time done. For we see an old charter making mention of one *Endobalde*, countie of the Pallace of king *Clotoire*, who sitting in counsell with the Senat, was to report the decrees thereof vnto the king, to the end to haue

A haue them by him either approued or reiected.

But the doubt is greater, whether the Senat in a Popular or Aristocratique estate ought to haue more power than in a Monarchie, or not? considering the great difference there is betwixt one lord and many, or betwixt one prince the soueraigne commander of his people; and an infinit number of men; as in a Popular estate. Besides that, we read also, that in the Roman Commonweale (which is holden to haue bene one of the most flourishing and best ordered that euer was) the Senat had power to dispose of the common treasure, and publike reuenue (one of the greatest points of soueraignie) to appoint lieutenants and gouernours of princes, to grant triumphs, and to dispose of religion. And for this cause *Tertullian* saith, That neuer any God was receiued in Rome, without the decree of the Senat. And as for ambassadours of kings and people, none but the Senat receiued and dismissed them. And that which more is, it was forbidden vpon paine of treason, to present any request vnto the people, without the aduise of the Senat before had, as we haue before declared. Which was not onely in Rome obserued, but also in all the Græcian Commonweales. For offending wherein *Thrasibulus* was in Athens accused of treason, as was afterwards also *Androtian* by *Demosthenes*. Which order is euen at this time better obserued and kept at Venice, than euer it was in Rome or Greece. And yet notwithstanding all this I say, that the Senat of the Popular or Aristocratique estates ought not to haue but the aduise and consultation of matters of state onely, the power still depending of them, which had the soueraignie. And as for that which is said of the power of the Roman Senat, that which it had, was nothing else but dignitie, authoritie, counsell, and not power: for that the people of Rome might when it saw good confirme or repeale the decrees of the Senat, which had no power to commaund, and much lesse to execute the decrees thereof; *Dionysius Halycarnassens* hath well noted, and *Linie* himselte oft times vsing this forme of speech, *Senatus decreuit, populus iussit*, The Senat decreed, and the people commanded. Wherein *Festus Pompeius* is deceiued, interpreting the word *iussit*, commaunded, for *decreuit*, or decreed. So that it belonged to the Senat to decree, and to the people to commaund. As when *Linie* speaking of the authoritie of *Scipio Africanus*, saith; *Nutus eius pro decretis patrum, pro populi iussis esse*, His beck was in stead of the

Whether the Senat in a popular or Aristocratique estate ought to haue more power then in a Monarchie.

What power the Senat or counsell ought to haue in a popular or Aristocratique estate.

That the Senat of Rome had no power to commaund in matters of state.

C Senators decrees, and the peoples commaunds. And that the least Tribune of the people, opposing himselte against the Senat, might stay all the decrees thereof. I haue here before noted certaine places out of *Titius Linus*: whereby it euidently appeareth, that the Senat could in nothing commaund: and especiall by the decree where it is said, That the Confull if he should thinke it so good, should present the request vnto the people, for the making of a dictator: and if it pleased not the Confull, then the Prætor of the citie should take that charge vpon him: who if he would therein do nothing, that then one of the Tribunes should do it. The Consuls (saith *Linie*) would therein doe nothing, and forbad the Prætor also to obey the Senat: Now had the Senat had so much power to commaund, as had the Confull, or one of the Tribunes of the people, it would neuer haue vsed such kind of speech; neither would the Consul haue forbidden the Prætor to obey the Senat. For indeed the Senat could not commaund the Prætors, but vsed these or like words, *If it should so secme vnto them good; or if so it were their pleasure*. So the same man in another place saith, *Decreuerunt patres ut Marcus Iunius Prætor urbanus si ei videretur, Decemuiros agro Samniti, Appuloque, quoad eius publicum erat metiendo, deuindendoque crearet*, The Senators decreed, that *Marcus Iunius*, Prætor of the citie, if he should thinke it so good, should appoint ten men for the measuring and diuiding of so much of the Samnite and Appulian land, as belonged to the Commonweale.

D

E

Now

Now if any man should say that these words, *Si ei videretur* (if it should so seeme **F** vnto him good) imported a commaund : the contrarie is proued in that, that *Linie* speaking of the punishment of the Campanians, saith, That the Consull *Fulvius* hauing red the decree of the Senat which caried these words : *Integram rem ad Senatum reijceret si ei videretur : interpretatum esse, quid magis à Republica duceret, æstimationem sibi permissam* : That he should, if he thought it so good, referte the whole matter vnto the Senat : to haue so interpreted the decree, as if the matter had bene committed to his discretion, to deeme what he should think best and most expedient therein to doe for the Commonweale : at which time question was of the liues and goods of all the Campanians, part of whom the Consull of himselfe without farther authoritie from the Senat caused to be put to death, and the rest to be sold by the drume. But that **G** the dignitie of the Magistrats was in the Roman Commonweale greater than the Senats, it appeareth by that, that such as writ letters vnto the Senat and people of Rome, if they therein comprehended the Magistrats also, they still placed them in order before the Senat ; as is manifest by the inscription of their letters, in this sort ; *Cn. Plancus Imp. Cos. desig. S. P. D. Cos. Pret. Tribb. pleb. Senatui, Populo, plebique Romano* : *Cn. Plancus* Generall, Consull elect, vnto the Consuls, Pretors, Tribunes of the people, the Senat, People, and Comminaltie of Rome sendeth greeting . Wherefore *Cicero* doth but orator like taunt *Vatinus*, when he saith, Art not thou a most certain murtherer of thy countrey ? thou lesteft not vnto the Senat, that which neuer man tooke from it ; that Legates should be appointed by the authoritie of that order. And he in ** Linie* **H** when as he speaketh of Triumphes, saying, It was neuer before by the people determined of triumphes, the estimation and bestowing of that honour hauing alwayes bene with the Senat : no not the kings themselues to haue impaired the maiestie of that order : he speaketh (I say) but like an orator : for that there was nothing which might not be taken from the Senat, the magistrat propounding a request to the contrarie vnto the people : as we haue by examples before declared . But how soeuer the Senat for the maintenance of the authoritie thereof made decrees, yet could it not commaund or put in execution any of those things that were by it decreed : neither had it so much as any Licitors or Sergeants, the true markes of them which haue power to commaund . But the Magistrats hauing the decrees of the Senat in their hand, directed their owne mandats and commissions for the execution thereof, if they thought it so good : assuring themselues to be out of blame in doing that the Senat had before decreed, it being alwaies readie to maintaine them in so doing : So the Senat being no way able to restraine *Cæsar*, tooke their refuge to that auncient decree of the Senat, which was commonly made but in the dangerous times of the Commonweale, *viç. Videant Consules ac ceteri Magistratus ne quid detrimenti capiat Respublica* : Let the Consuls and other magistrats foresee that the Commonweale take no harme : with which decree of the Senat (saith *Cæsar*) the Consuls armed, sodenly raised their power and took vp armes against *Cæsar* : by which words it appeareth, authoritie to haue **K** bene in the Senat, but the chiefe commaund in the Magistrats . But if any Tribune of the people once opposed himselfe against the decree of the Senat, not onely the authoritie of the Senat, but of the Consuls and other magistrats also ceased. And for that cause there were ordinarily some of the Tribunes at the gate of the Senat, (before that the law *Atinia* gaue them entrance into the Senat house) vnto whom the decrees of the Senat were brought and showed, for them to confirme by writing ouer them this letter *T*, or reiect by putting thereunto this word *Veto*, that is to say, *I forbid it* . So that the Senat did nothing but by sufferance of the people, or of the Tribunes, who were as it were espials of the Senat, and keepers of the libertie of the people, hauing alwaies

The dignitie of the great magistrats in the Roman Commonweale greater then the dignitie of the Senat.

Lib. 28.

The great power in the Tribunes of Rome.

Alwaies free power to take exception to whatsoeuer was decreed, if the people by expresse law tooke it not from them, permitting the whole disciding of the matter propounded, vnto the Senat, without the interruption of the Tribunes. As it did at the request of *Tiberius Graccus* Tribune of the people, giuing leaue vnto the Senat for that yeare to dispose of the Consularie prouinces, with expresse prohibition vnto the Tribunes for the opposing of themselves, for that time onely. For after that time the people oft times gaue the prouinces and governments, without the aduise or authoritie of the Senat. Now to say that the Senat had the disposing of the common treasure, true it is, but that was but vpon sufferance, and so long as it pleased the people; as we may see by the law *Sempronia*, whereby the people decreed that the souldiours should be apparelled of the charge of the common treasure. And he that hath no power but by sufferance, and by way of intreatie hath no power at all, as we haue before said. So in like case we see the *Auogadours* or *Triumviri* in the Venetian state often times to oppose themselves, not onely against the proceedings of the Sages and *Decemviri*, but euen of the Senat also, and so cause the matter to be brought vnto the hearing of the graund Counsell.

But here againe a man may say, that if the Senat in bodie or lawfull assemblie had no power to command, there was then no difference betwixt the decrees of the Senat, and that which they call *The authoritie*: for so it was that if there were lesse then foure hundred Senatours, by the decree of *Augustus*, (who were afterward brought to the number of fiftie) that they agreed vpon, was called an *Authoritie*, but not a *Decree* of the Senat. As also we may see by the law *Cornelia*, published at the request of a Tribune of the people: whereby it was forbidden the Senat any more to graunt priuileges or dispensations, except there were two hundred Senatours at the least present. Whereby it is to be gathered, that the Senat in such number had power to command: whereunto I say that a decree in the nature of it selfe carrieth with it no command, no more then the sentence of the iudge, if the commission be not on foot. Now the Senat neuer iudged or determined, neither could giue out any commission or mandate; and therefore neuer had the power to command their decrees to be put in execution, without the power and authoritie of the magistrats still being of none effect. And yet whatsoeuer decree the Senat had made, and were it neuer so well by the power of the magistrat confirmed; was but annuall as *Dionysius Halicarnassens* hath well written; and not perpetuall as *Conan* supposeth.

But how then (might some man say) did the Senat cause three hundred souldiours citizens of Rome, which remayned of the Legion that had sacked *Rhegium* in *Sicilie* where they were left in garrison, to be led away, and being stript and beaten, to be all afterward beheaded before the people, without any regard had vnto the opposition of the Tribunes, or appeales of the condemned, most miserably crying out, the sacred lawes to be therein broken and troden vnder foot. But herein question was of militarie discipline, which in that respect hath nothing common with domesticall lawes and customes. Beside that it was done but by the aduise of the Senat, the execution thereof being performed by the magistrats, who were not bound to obey the Senat, if they had not bene thereunto willing. Yea moreouer such was the crueltie and horribleness of the villanie by the garrison souldiours committed at *Rhegium*, who themselves most cruelly rifled the citie, which they ought with their blood to haue defended against the assaults of the enemy: as that it caused all the ordinarie power of the lawes to cease: no punishment being thought sufficient to reuenge the same. Which cases when they chaunced, the titles and querks of lawes were little at all regarded, especially in the midst of such a noise of weapons. But as oft as the Senat or Consuls attemp-

What an authoritie was among the Romans.

Martiall discipline respecteth not the common or domesticall lawes.

attempted to infringe the soueraigntie of the people, or to breake the laws, as oft times they did the Tribunes, were straight waies readie to oppose themselves against them. For in that *Caius Cornelius* Tribune of the people, made a request vnto the people, that the Senat from that time forward, should not decree any thing against the libertie of the people, and the maiestie thereof: it sufficiently declareth the Senat oft times before contrarie vnto the law, to haue vsurped the rights of soueraigntie: howbeit therein is not to be respected what was done, but what of right ought to haue bene done. Howbeit it is manifest, that the Senat in the latter times thereof had power to make lawes: but then it had left off to be a Senat, and was then become rather an ordinarie court of judges. And yet the magistrats themselves, as the Prætors, the Ædiles, yea and the famous lawyers also made a great part of the Roman law, albeit that they had no power to commaund at all: but all this dependeth of the good liking of the prince or people, without whose authoritie and commaund, the force of the law, edict, or decree made, was nothing. Seeing then that the Senat in a Popular estate hath no ordinarie power to commaund, nor to do any thing but by sufferance; much lesse power shall it haue in an Aristocratique estate, or in a Monarchie: and so much the lesse in a Monarchie by how much kings are more ielouse of their estates, than are the people, and better know than they, how to defend their owne soueraigntie.

But whereas we said, It was not lawfull without the priuitie of the Senat, to propound any request vnto people, that indeed was so provided by the law *Popilia* and *Hortensia*: yet was it lawfull alwaies without the priuitie of the Senat, to propound requests vnto the Comminaltie: and although that by the Consularie law *Cornelia*, it was also forbidden without the priuitie of the Senat, to propound any request vnto the Comminaltie, yet was that law shortly after againe by the law *Pompeia* repealed and abrogated. Wherein many with great libertie abuse the words *Populi ac Plebis Romane*, (the People and Comminaltie of Rome) and especially the Greekes, and such as ignorant of the Roman antiquitie, interpret the Greeke writers.

That is also worth the noting, that albeit that the request which the magistrats were about to propound vnto the people, were disliked of the Senat, yet might they neuertheless lawfully moue the same vnto the people, after they had once made the Senat acquainted therewith. The same may serue also for an aunswere to that which *Iosephus* the historiographer saith, That *Moysses* forbad the king to denie any thing concerning the publike, without the aduise of the Senat, and the high priest (howbeit that this article is not to be found in all the law) yet thereof it followeth not, that the king was thereby of necessitie bound to follow their aduise. For albeit that the Roman emperours terme themselves the principall Senators, or chiefe of their councill; yet such additions in nothing diminished their maiestie. Yea albeit that they called the Senators their companions, or good lords and maisters; as did *Tiberius*, who in the beginning of his raigne called the Senators, *Indulgentissimos dominos*, His most louing Lords, as we read in *Tacitus*. But how much princes gaue vnto the Senat, and the Senat vnto princes, *Plinie* the younger doth in two words (as it were) declare; where hee thus speaketh of a certaine decree of the Senat, *Voluntati tamen principis sui, cui in nulla re fas putaret repugnare, in hac quoque re obsequi*, but to obey the will of their prince, whereunto they thought it not lawfull in any thing to resist, euen so in this thing also to shew themselves obedient.

And further also, the Senators or Councillors of the estate, to speake properly are no where accounted either as officers or commissioners: neither in this realme are they by any law, or edict, or charter of the kings made councillors, but only by a short brieve without any seale, signed with the kings hand, expressing in few words, that the

Why the Roman emperours sometime called the Senators their companions, or good lords.

* viz France. Senators neither officers nor commissioners.

king

A king during his pleasure giueth them place and deliberative voice in his counsell. But the king being dead, they must haue another such brieve for the holding of their places, except such as for their calling, or the charge they haue in the Commonweale, haue acceſſe and entrance into the counsell.

Now if any man aske, Why a Senat in a well ordered Commonweale, should not haue also power to commaund? The principall reason is, for that if it should haue power to commaund also what it had in counsell decreed, the soueraigntie should rest only in the counsell: and so the counsellors of the estate, in stead of counsellors should ther- of become maisters, hauing the manning of the affaires, and power to dispose of all at their pleasure; a thing impossible to be done, without the impairing, or to say better

For what reason a Senat in a well ordered Commonweale should not haue also power to commaund.

B the viter subuersion of all soueraigntie and maiestie: which is so high and so sacred, as that it belongeth not vnto subjects, of what estate or condition soeuer, once to touch it either nie, or a farte off. Wherby it is to be vnderstood, them that giue commaund vnto a Senat, to go about the destruction of the Commonweale, and viter ruine of the state. And for this cause the Great Council of Venice (wherein the maiestie of their state consisteth) seeing the Decemviri to take vpon them aboue that which was committed to their charge, forbade them vpon pain of high treason to commaund or determine of any thing concerning the state, nor so much as to write their definitive letters; but to haue therein recourse vnto the Seignorie, vntill the Grand Council were assembled. For which selfe same reason, and that moe of the citisens also might be partakers

C of that honour, hey haue decreed, That the six counsellors of estate, assistants vnto the duke, shall not be but two moneths in that so honourable a charge: to the end that the custome to commaund should not breed in them a desire still to continue the same, as also to aspire higher. Howbeit I am not of opinion so to haue the counsellours of estate changed and rechanged; but rather to haue them perpetuall, as they were of ancient time at Rome, Lacedemonia, and Pharsalia, and yet are in Polonia and Geneua. For the yearly chaunging which they made in Athens, and yet make in Venice, Rhagusium, Luques, Genes, Nuremberg, and diuers other townes of Germanie, doth not onely greatly obscure the glorie of the Senat, which ought to shine as the sunne, but

That the Senat or counsell of estate ought to be perpetual, and not euery year chaunged; with the dangers that ensue of such yearly chaunge

D also draweth after it the inenitable daunger of disclosing and publishing of the secrets of the estate: joining hereunto also, That the Senat, all new, cannot bee enformed of affaires passed, neither yet well continue the entertainment of the affaires present. Which for that it seemed vnto the Florentines a thing verie daungerous, they at the request of *Peter Soderin* their Gonfalonier (and a chiefe man in the reforming of their estate) decreed, That all the Senat of fourescore, should from six moneths to six moneths bee removed; excepting such as had before bene Gonfaloniers or chiefe officers in the Commonweale, whome they appointed perpetuall Senators, of purpose to instruct the other new Senators in the affaires of state. The same order they of Genes are faine also to take in their mutable common Senat, wherein such as haue bene dukes and Syndics are perpetuall Senators. Wherein the Rhagusians are better provided of their Senat than are the Venerians, whose example they seeme to haue followed in the forming of their Commonweale: For in Venice the Senat changeth euery year all at once: but in Rhaguse the Senators which are also but one year in charge, change still one after another, and not all in one year. But if the desire of honour bee so great, as that the citisens cannot other wise be satisfied, except they all by turnes may haue place in the Senat, we must then imitat that which *Solon* did; who in the Popular estate of the Athenians by him framed, appointed a mutable Senat of foure hundred citisens euery year to be changed: but withall hee made a perpetuall priue Council of the Arcopagits, to the intent, that that mutable Senat, and yearly change of all the other

magistrats might thereupon rest, as vpon a most firme and sure stay. And thus hauing spoken of a Senat, order requireth that we should also speake of the Officers and Commissioners in a Commonweale. E

CHAP. II.

¶ Of the Officers and Commissioners in a Commonweale.



S in the whole bodie of the law concerning Commonweales, are contained many things right fruitfull and commodious: so also amongst the rest, the reasoning and discourse concerning publike persons, hath alwayes bene thought most profitable: and albeit that many things concerning magistrats are thought common and vsuall, yet lie the same for most part almost wrapped vp in obscuritie: For that they which haue thereof reasoned, do therein define nothing plainly. Wherefore I haue thought it best to begin this our discourse of their definitions. An Officer therefore is a publike person, who hath an ordinarie charge by law limited vnto him. A Commissioner is a publike person, but with an extraordinarie charge limited vnto him, without law, by vertue of commission only. Which definitions so by vs set downe, that they may become more plaine, it shall not be amisse to make a diuision of publike persons, euen from the first beginning of them. And first I call them publike persons, who are to attend vpon the publike affaires: of whome there are two sorts, one which hath power to commaund, whome they call Magistrats: and another sort which hath no such commaunding power, but is onely to vnderstand or to put in execution the commaundements of the others; and are yet all publike persons also. Howbeit for all that, all publike persons are not Officers, or Commissioners; as Archbishops, Bishops, and Ministers, are publike persons, and beneficed men rather than Officers: which we must not mingle together, considering that the one sort is established for matters diuine, and the other for worldly affaires, which ought not to be confounded. Joyning hereunto also, that the establishing of them which are employed in diuine matters, dependeth not of the politike edicts or lawes, as the Officers do. Let vs then see the definitions by vs set downe, whether they be good or no, before we enter into the diuision of Officers, for that no man, either lawyer, or of them which haue before entreated of the state of Commonweales, hath truly told what an Officer, a Commissioner, or a Magistrat is: which for all that is a thing most necessarie to be vnderstood, seeing that the Officer is one of the most principall parts of a Commonweale, which cannot stand without Officers and Commissioners. But forasmuch as Commonweales were first serued by Commissioners, before they were serued by Magistrats or Officers (as wee will hereafter show) it is fit that we should first speake of Commissioners, and of the difference betwixt them and the Magistrats or Officers. G

What an Officer
is? what a Com-
missioner is?

A publike per-
son who?
Two sorts of
publike per-
sons.

Aristotle his de-
finition of a Ma-
gistrat impug-
ned.

Aristotle saith, That a Magistrat is he that hath a deliberative voice in the Senat, and in iudgement, with power also to commaund. He also calleth the magistrat ἀρχαῖον which is not proper but to them which are of power to commaund, and agreeth not vnto officers that serue, as Vthers, Sergeants, Trumpetors, Scribes and Notaries, whom he putteth into the ranke of Magistrats, and yet haue no power to commaund: so that this definition is in that respect too short. Besides that, it is a thing more absurd, that he should not be a Magistrat, which hath no entrance into the priue councill, neither yet deliberative voyce, nor power to iudge: for if it were so, there should be but few magistrats in all Commonweales, considering that there are so few conncellors of the priue K

A uie counsell in well ordered Commonweales, and among them not one which hath deliberative voice, but by commission: and albeit that they had such voice, yet had they no commaund, as we haue before declared.

And as for the lawyers, there be but few of them which haue touched this string: and namely doct^r *Jouen* confesseth, That it alwaies seemed vnto him an hard thing, rightly to define a Magistrat. And indeed in the definition of a Magistrat by him made he is deceiued: For he saith, That a Magistrat is he to whome the prince hath giuen any charge: in which sence and sort all Commissioners should be magistrats. But *D. Cuiacius*, beside the definition of *Aristotle*, promisseth to bring three others: A Magistrat (saith he) is a publike person, who hath preheminence in doing of iustice; or hee which sitteth in seate of iustice; or else he which hath iurisdiction and publike iudgement: so that by his account he appointeth foure definitions, with that of *Aristotle*. Which is directly against the Maximes of all Philosophie, and contrarie to the principles of Logike, that one should giue more than one definition to one thing: and is also impoossible by nature. But if any say, That many descriptions may be giuen of one and the same thing, for that the accidents are manie which are in one thing: true it is, but an hundred descriptions cannot declare and make manifest the substance or nature of a thing: Which in the Art of reasoning is a great fault: but in the knowledge of the law much greater, and especially in the matter of Magistrats and officers, which is the entrance of the law, where the lawyers begin. For the principall marke

The lawiers definitions of magistrats censured.

C whereby a Magistrat is knowne, which is, To haue power to commaund; is in these three definitions wanting: and the magistrats lieutenants haue the hearing of causes, are presidents in iudgement, and sit in the seat of iustice, and yet for all that are no magistrats at all. The bishops also sit in publike iudgement, and seat of iustice, and haue the hearing of causes: For when *Lentulus* the Great Bishop, made relation vnto the Senat, of the decrees of the colledge of Bishops, and the law *Clodia*, concerning the consecration of *Cicerones* house, thus he began his speech, *Pontifices religionis sunt iudices, legis Senatus*, The Bishops (saith he) are iudges of religion, and the Senat of law. So doe the Cadies, or Mahometane Bishops in the East; and yet for all that they are no magistrats, considering that they had or haue no power to commaund, nor to call men before them, to imprison them, or to put their owne iudgements in execution: neither haue they any sergeant or officer whome they can commaund, no more than haue the Cadies, or Paracadies in Turkie, or the auncient bishops of Rome; which is a thing worth the marking. And sometimes cleane contrarie, some haue authoritie and power to commaund, which haue no iurisdiction or hearing of the cause at all, as wee will hereafter shortly show. And that more is, the Commissioners of publike extraordinarie causes, in ancient time deputed by the people of Rome, whom the law calleth *questores parricidij*, had (as at this present Commissioners appointed by the prince haue) power to heare the cause, to sit in iustice, to iudge, to commaund, to compell, and yet for all that were no magistrats. Which being so, none of the afore said definitions can bee good.

The principall marke whereby a magistrate is knowne.

The auncient bishops in Rome no magistrats, and why.

E Besides that there is another fault in them, for not hauing distinguished the magistrats from the other officers, nor made any difference betwixt an officer, & a commissioner; whereof a great confusion and medley of commissioners and officers must needs ensue. *Carolus Sigonius*, who seemeth more curiously to haue searched into the definition of a Magistrat, is yet therein many waies also deceiued: For he calleth all them magistrats which haue any publike charge of worldly affaires, without making of any difference betweene officers and commissioners, or betwixt the magistrats and other officers, which haue also publike charges; besides that he giueth power to al magistrats, to iudge, to commaund, and to put in execution, euen vnto the *Aruspices*. Howbeit as a defini-

tion ought not to extend farther, or lesse way, than doth the thing that is defined: so F
ought also the description of a magistrat in this our treatise of a Commonweale, to
agree to all magistrats of all Commonweales indifferently.

The difference be
twixt magistrats
and priuat men,
as also betwixt
magistrates and
commissioners.

Now in the definition by our selues proposed, we first said, all officers (whither they
were magistrats, or magistrats seruants) to be publique persons: who in that differ from
priuat men, for that priuat men haue nothing to doe with the affaires of the Common
weale. We said also the Magistrats to haue an ordinarie charge, whereby to differ
from Commissioners, who haue also publique charge, but yet extraordinarie, accor-
ding to the occasions in the occurrents of time presented: such as were in auntient time
the Dictators, criminall Quæstors, and other judges extraordinarily by the people
of Rome appointed, at the motion and request of the Magistrats. And last of all we G
said, their ordinarie charge to be to them by law limited and bounded: for the erection
of their publique ordinarie charges, erected by the name of offices, which otherwise
should be no offices, if there were not for them an expresse edict or law. A thing al-
waies obserued in the auntient Commonweales both of the Greeks and Latins; and
now also better than euer: and to this end Princes cause their edicts to be published, in
their soueraigne and inferiour courts: and in this realme of Fraunce, the charters of of-
fices newly erected are sealed with greene wax, with labels of greene and red silke, and
this style, *viz. To all men present and to come*, with a continuance perpetuall: whereas
the letters patentes of commissions, are sealed with yellow wax, with a labell of plaine
parchment, without any perpetuie. And albeit that all Corporations and Colleges H
be graunted by the prince with a charge by law limited for euer, as I haue said; yet so
it is, that if the king will augment or increase the number of the corporation or colle-
ges of judges, or other magistrats, yea or of the most base or vile officers: as of Serge-
ants, criers, trumpetours, land measurers, broakers, and such like, it must be done by
publique edict, verified and inrolled: of examples whereof all the records of the courts
of justice are full. But whereas we said the lawes concerning officers to be perpetuall,
that is to be vnderstood of the perpetuie of the offices, which continue for euer after
they be once by edict erected, (what time soeuer it be that is prescribed vnto the offi-
cers themselves,) vntill that by contrarie edicts or lawes the same offices be againe put I
downe. Although the officer hold his place but for the space of eightene moneths,
as did of long the Censors their censorship, (which for al that was at length prorogued
for fīue yeares, for that so great an office could not in lesse time well be discharged,) or
for a yeare: as did all the other offices in Rome, by the law Villia: or for six moneths,
as did the Senators of Florence, after it was a popular estate: or for two moneths, as
did the six Counsellours of the seignorie which are assistant vnto the duke of Venice:
or for one day onely, as the Captaines of the two fortresses of the castle of Rhaguse,
whose office is perpetuall, albeit that their command last but for one day. But how-
soeuer it be that offices be erected with ordinarie and publique charge, it must still be
done by law: not for that it is needfull to haue parchment to write it in, or greene waxe K
to seale it with, or yet magistrats to publish the edicts concerning the erection of such
offices: for the writing, the seale, the verification, albeit that they giue credit vnto the
lawes which are made, yet make they no lawes; no more than they doe other acts and
contracts. But to the contrarie there were neuer lawes more strong or better kept, than
those of the Lacedemonians, which *Lycurgus* forbad to be written, and were for that
cause called *Rhetes*: for so he was perswaded that they should the rather remaine in-
uiolat and of long continuance, if they were once writ in the hearts of his citisens
and not in tables, in their mindes and not in bookes. The Athenians in like case had
a certeine forme of presenting their requests vnto the people, which if the people re-
ceiued

Offices not to be
erected, but by ex-
presse edict, or
lawe.

Offices to be per-
petuall although
that the officers
ofentimes
change.

Lawes neuer so
whit the stronger
for being written

A ceived, it then passed into the force of a law : which they vsed to ingraue in brasse, and to fasten it vnto a pillar, lest any man should vnder the colour of ignorance excuse him selfe in transgressing the same. So when question was for the erecting of an hundred new Senators in Athens out of the two new Tribes of *Antigonus* and *Demetrius*, the law for the erection of them was published vnto the people : which was also done in the erection of all other offices as is to be seene in *Thucydides*, *Plutarch*, and *Demosthenes*. The like is to be said of the Roman magistrats : for the Consuls were created by the law *Iunia* : and the Tribunes of the people by the law *Duillia* : and when question was for the creating of one of the Consuls out of the people, it was done by the law *Licina*. And afterward the Prætor for the administration of justice in the citie was made by the law *Sextia*. And the foure Prætors for publique criminall causes, (beside the other before erected) by the lawes *Cornelia* and *Bæbia*. So may we also see of all the other Magistrats erected by the Emperours : that it was alwaies done by expresse Edict, wherein the time, the place, and their ordinarie charge are limited. As in all the first & twelfth bookes of the Code, and in the Edicts of *Iustinian* it appeareth where euery magistrat hath his particular Edict.

Al offices in Rome erected by one or other expresse lawe.

C We haue put also into our definition of an Officer, that he must haue an ordinarie charge, for that the commaunds of the people of Rome granted by commissions and extraordinarie charges were aswell called by the name of Lawes, as were those that were made for ordinarie offices : the charge, the time, and place being still limited by commission : as a man may see by the commissions granted vnto the Dictators, which were sometime made by the decree of the people, as I haue before shewed. And also by the commission granted to *Pompee* for five yeares, therein to end the Pirats warre : with commaund ouer all the coasts and haven townes of the Mediterranean Sea, all granted vnto him by the law *Gabinia*. As also by commission giuen him for the warre against king *Mithridates*, granted by the law *Manilia*. But forasmuch as these were not but extraordinarie charges, a man could not call them offices, which are still ordinarie and perpetuall. And for because those warres were in short time to be ended, it was not meete therefore to create a new magistrat, whose office and charge should be perpetuall, but onely extraordinarily to commit the care of that warre vnto a most sufficient Captaine and Generall : vnto whom five yeares time was limited at the request of *Catulus* : to the intent that *Pompee* in that time might end the warre, and not longer to protract it to be so alwaies in imployment : Or if the warre were sooner ended, that then his commission should end also. And all such extraordinary charges we call by the name of Commission. The Dictatorship was also a charge giuen by commission, and not an ordinarie power : for why, the Dictator was not but extraordinarily and without law nominated by the Interrex or Consul, some great matter so requiring : and for that all offices ceased the Dictator being created, his commission was limited but vnto six moneths at the most, and if he had soner dispatched the businesse for which he was appointed Dictator, his commission then also expired, and his authoritie ceased ; as we haue by many examples before declared. And as a man may see by * *Æmilius Mamercus*, who chosen Dictator, and the same day hauing dispatched the businesse for which he was chosen, the verie next day following gaue vp his charge : showing therein how little he liked of long rule or authoritie. Howbeit such is the nature and power of all Commissions, as that according to the pleasure of him that hath the soueraigntie, they may be either reuoked or proroged. And albeit that commissions in Popular and Aristocratique Commonweales are almost still limited vnto a certaine time : yet in a Monarchie that extraordinarie and permissiue charge is tyed to no time at all : for why, in Popular and Aristocratique estates and

An officer also waies hath an ordinary charge, and in that he differeth from a commissioner whose charge is alwaies extraordinary.

* *Livius lib. 9.*

Commissions depend of the pleasure of him or them that haue the soueraigntie in the State.

The greater the charge is that is giuen by commission the shorter time it ought to endure.

Large and long commissions dangerous to the state.

gouernments, the greater the charge is giuen by commission, the more need it is to haue it in short time expired; least longer power might giue occasion to ambitious minds to take vnto themselues the gouernment, and so to oppresse the libertie of the state. And therefore the dictatorship was but for six moneths, neither was that power euer longer proroged to any man in that free Commonweale, except to *Furius Camillus*. For at such time as the people of Rome had extraordinarily created the Decemviri with a yearely and soueraigne power, for the reforming of their old lawes and customes, and the making of new and more commodious for the state: their commission which should not haue passed, a yeare being expired, was againe by the people for another yere proroged, with absolute and soueraigne power: and all other magistrats suspended during the time of their commission; vntil that out of the best lawes of other cities they had gathered the lawes of the twelue tables. Vpon which continuance of bearing rule, these Decemviri tooke occasion to oppresse the libertie of the state, and to take vpon themselues the soueraignie, had it not by force againe bene wrong out of their hands, and that not without the great trouble and turmoile of the citie. For which cause the people from thenceforth erected the offices of the Tribunes of the people, as defenders and keepers of their libertie; who alone of all the magistrats held their places after the creation of the dictator, all other magistrats and officers being for that time suspended. The Florentines did otherwise, who almost euerie sixt yeate extraordinarily created eight or ten Commissioners, with soueraigne power, and without limitation of time, for the ordering of their Commonweale, and the reforming of the abuses therein: who being once created, all other their magistrats ceased. By which meane these ambitious in effect tooke vpon themselues the gouernment, albeit that in outward appearance they made faire show of the giuing vp of their charge. For the suspending of all magistrats in generall, is a thing right dangerous, not onely in Popular and Aristocratike estates, but euen in a Monarchie also: which yet I neuer knew to haue happened in this kingdome of Fraunce, but at such time as king *John* was taken prisoner by the Englishmen: For then *Charles* the fift hauing gotten of his father the gouernment of the kingdome, appointed fiftie commissioners for the reforming of the Commonweale, with power to examine the doings and abuses of all the other magistrats, from whome as then all power was taken. At which time the Commonweale destitute of gouernours, was by the seditious wonderfully disturbed: but more of these things in their place.

The difference betwixt an office and a commission.

But the better and the more easily to vnderstand the difference betwixt an office and a commission, a man may in some sort say, that an office is a thing borrowed, which the owner cannot demaund againe before the time it was lent for bee expired: but a commission is a thing which one hath but by sufferance, end as it were by leaue, which the owner may againe demaund when he seeth good. And that is it for which *Tacitus* merily speaking of the raigne of *Galba*, which continued but three moneths, saith, *Præcarium seni imperium, & breui transiturum*, The old mans empire was but by sufferance and in short time to passe away: not for that he had indeed his empire by sufferance, but for that he was now growne extreame old, and being vnfit for the gouernment of the empire, foresaw that in short time it must againe by naturall death bee taken from him, although he had not (as indeed he was) bene before slaine. Howbeit a Commission is of such nature, as that it expireth so soone as the charge thereof is executed, although it be not reuoked, or that the time was graunted longer for the execution thereof, and yet neuertheless may be alwaies reuoked, whensoever it shall please him that graunted it, whether the matter for which it was graunted be yet entire or not, as wee haue before showed by the exawple of the Dictators. And to this purpose there is an

old

A old decree of parliament yet extant in the records of the court of Paris, against the pursuants sent to Troy with the judges for the publike extraordinary causes, being indeed none of the bodie of the court, who (the commission expired) neuertheless yet bearing themselves as pursuants, were by the court commaunded to resigne vp their office, and a decree made them to be no officers at all.

I stand longer vpon this point, which although it may seeme easie vnto men of experience, yet vnto others it may seeme strange: yea two of the greatest orators of their time, namely *Demosthenes* and *Aeschines* grounded the state of their orations and pleas vpon this point. For when *Ctesiphon* had presented a request vnto the people, That it would please them, that *Demosthenes* for his good deserts towards the Commonweale (and namely for hauing most strongly fortified the walles and castles of the citie of Athens) might in the open theater be rewarded with a crowne of gold. *Aeschines Demosthenes* his greatest enemy, opposed himselfe against the entertainment of the request, alleaging for the cause thereof, That by the law no man was to be rewarded, except he had first giuen an account vnto the people of his office well discharged, as all magistrats were bound to do. *Demosthenes* for that it concerned his owne honour and reputation, taking the matter in hand, made of all others a most excellent oration for *Ctesiphon*, or more truely to say, for the crowne he would haue had, alleaging, That the law spake not but of Magistrats; and that charge of repairing and fortifying of the wals and other fortresses, was no magistracie or office, but onely a simple commission; and therefore in his vulgar tongue saith, *τεχνοποιόν, ουκ ἄρχην εἶναι, ἀλλ' ἐπιμέλειαν τινα καὶ διακονίαν*. Which the Latines properly called *Curatio*, which is to say a Commission. Wherby it appeareth, that publike charge, for repairing of the walles, not to haue bene an ordinarie matter, but extraordinarie, for that there is not still need for to repaire them. Neither ought it to seeme strange, if *Demosthenes* well knew to distinguish and put a difference betwixt a commission and an office (as hauing bene of long time exercised in the publike affaires, and as it were in the middest of the Commonweale) both which *Aristotle* altogether confounded. The one of them also hauing alwaies managed the affaires of state; and the other as saith *Laertius*, neuer intermedling therein. And that is it for which *Nicholaus Grouchius*, and *Carolus Sigonius*, for not hauing vnderstood the difference betwixt an office and a commission, haue so much troubled themselves with replies and reioynders, without any resolution at all, as men ignorant in the knowledge of matters of law and of state. All which shall I hope be well manifested, by that which shall be set downe in this booke.

To fortifie is no magistracie but a certaine charge and ministrie.

In the laws of *Charlemaigne* Commissioners were called *missi*, a *mittendo*; which signifieth sent; which the Germans call by an old word *Skaken*: whereof they called the court of judges, which were extraordinarily sent into the prouinces (& were indeed nothing else but Commissioners) *Scacarium*. But here perhaps may some man say, That the Commissioners of the castle of Paris, and judges of the court of Requests of the Pallace, are also officers: which being so, how could it then be, that an office and a commission should not be also all one? Whereunto I answere, That of antient time those judges were but simple commissioners, with authoritie and power during plea- who yet afterwards for the common good and profit were made perpetuall officers, with an ordinarie and perpetuall charge and power committed vnto them: their old and former name of commissioners, yet by abuse or for the honor of that court still remaining: whereby those judges of the court of Requests, are yet called the Commissioners of the Parliament; as judges appointed, and againe to be reuoked at the pleasure of the prince. Which judges of the court of Requests (for all that) cannot now be reuoked by the king himselfe, except they first bee by capitall iudgement

Commissioners turned into iudges, and yet still knowne by the name of commissioners

condemned, or willingly of themselves resigne their places: for so it was by the law **F** of *Lewes* the eleuenth provided. Not for that commission is incompatible with an office, most part of compassions being not directed but vnto magistrats or officers: but for that an officer in the qualitie of an officer, cannot be also a commissioner, for the self same charge limited vnto him by his office. For such commissions as they call Excitatives, extraordinarily directed vnto officers for matters concerning the reuiuing the iurisdiction, or authoritie of their offices, are not properly commissions, if the time or the place be not by the commission altered; as to iudge according to the latter proceedings, and to leaue the former: for after that the time and order appointed by the law, is altered by the authoritie of the prince or magistrat, it is to be now determined by commission. Now the difference herein which the lawyers hold, is notable, as, That if any officer haue iudged of a fact contained in his commission, in the qualitie of an officer, **G** that his iudgement is naught: but yet that is to be vnderstood in a thing which concerneth not his office: For if there bee a concurrence of the commission Excitative, with the charge contained in the erection of his office, the ordinarie hearing of the cause is to be preferred before the commission, euen as the qualitie of the officer is to be preferred before the qualitie of the Commissioner; and the acts of the officers more assured than the acts of the Commissioners. And so in such concurrence of authoritie, if the officer commissionat also in a matter belonging to his owne charge, haue not declared in what qualitie he had the hearing of the cause: the act by him done shall be taken, as the act of an officer, to the intent it may be the more firme and sure. It is also **H** manifest, extraordinarie commissions extenuating the power and authoritie of magistrats or officers to be odious, or at leastwise lesse gracious, if they bee not for the reforming and amending of the abuses and corruption of the officers. As they do in Venice, from five yeares to five yeares: And euerie yeare in Genes, where the Sindies are afterwards Commissioners, to heare the abuses committed by the magistrats & officers (which in auncient time in Athens was giuen to certaine ordinarie magistrats) as also at Rome by the law *Bebia*; when as before *Quæstors* or judges were by commission appointed by the people. That extraordinarie hearing of causes of the judges by commission, was also gracious; which *Vespasian* the emperour appointed for the hearing and determining of suits and controuersies, which in the time of the ciuill warres were growne infinitely, and for the deciding whereof the whole liues of all the magistrats would haue scarce sufficed. Commissions may also bee graunted for things concerning the greater part of officers, or a whole corporation or colledge, in which and like cases commissions are necessarie. And I remember that king *Charles* the ninth, hauing directed his letters patents, in the yeare 1570, for the generall reformation of the waters and Forrests of Normandie, which drew after it question of the fairest of his demaine; from the hearing whereof the precedent and counsellors of the parliament of Roan were forbidden: Which interiection although they left nothing vnattempted to haue letted, yet so it was, that in fine they agreed thereunto, after that I had againe **K** and againe presented vnto them the kings commaunds, to that effect and purpose, and commenced suit not onely against the principall men of that prouinciall court, about matters concerning my commission, but also against the whole bodie and corporation of the citie of Roan, for the rights which they pretended against the king; and that, that was the cause for which I had obtained the interdiction.

But briefly, and yet more plainely and plentifully to make plaine all sorts of Commissioners, whether they be for the gouernment of prouinces, or for the warres; or for the administration of iustice, or for the kings receipts and treasure, or other things concerning the state. We say, that the commissions come still from the soueraigne

princes

Extraordinarie commissions extenuating the authoritie of the magistrate odious.

Diuers sortes of commissioners, and from whom they haue their commissions.

A prince, or from the magistrats, or from commissioners deputed by the soueraigne prince; for a fourth there is not. Againe Commissioners deputed, are either taken out of the number of magistrats and officers, or out of other priuat men. And if the commission be directed vnto the magistrats or officers, it is either for matter belonging vnto them by their office, or otherwise not belonging vnto them. And in what sort soeuer it be that commission be directed, whether it be to an officer, or a patticular person, it is directed with power and authoritie to heare and proceed in the cause; either without appeale, or else with appeale referued vnto the soueraigne prince, (if the commission came from him) or vnto the magistrats named in the commission; or els a commissioner is appointed by him whome the soueraigne hath deputed: as sometime commission is giuen out for the instruction of the affaires, or proceedings vnto the definitive sentence exclusinely or inclusinely, sauing the execution thereof, if appeale bee made. Sometime also Commissioners are appointed by the magistrats to examine a fact, or the right of a matter, or both the one and the other together; sometimes without any power or commaund, and sometime with both.

This diuision extendeth to all Commissioners, in what forme of Commonweale soeuer it be. As is to be seene in the state of the Romans, where the manning of the warres, and gouernment of the countries and prouinces newly conquered, at the first belonged vnto the ordinarie magistrats and officers, *viz.* the Consuls, Prætors, and Quæstors, yea euen a good way from the citie, whilest that the Roman empire was yet contained within the bounds of Italie: But after that the bounds thereof were extended further, they then began to appoint Commissioners to gouerne their prouinces, in stead of their ordinarie magistrats, who although they were all by one name called *Potestates*, yet for all that they gouerned the prouinces in stead of Consuls, Prætors, and Quæstors: they were also called Proconsuls, Proprætors, Proquæstors, that is to say, Commissioners, or Lieutenants sent in stead of Consuls, Prætors, or Quæstors: As is in *Liui* to be seene, who speaking of *Philo* the first Proconsull saith, *Actum cum Tribunis Plebis est, ad populum ferrent ut cum Philo Consulatu abisset, pro consule rem gereret*, The tribunes of the people were dealt with, that they would moue it vnto the people, that when *Philo* was out of his consulship he might rule as proconsul. But after that the empire was growne great, and also extended farre, such commissions were by the sufferance of the people graunted by the Senat, to such as were lately gone out of their offices in the citie, who agreed among themselues for the gouernment of the prouinces; or if they could not so fall to agreement, cast lots for them, which they called *Campanare inter se, & sortiri*: Except the charge and commission were of such consequence and importance (by reason of some great warre already risen, or like to arise in the prouince) as deserued to haue some valiant and great captaine without lot therevnto by the Senat appointed: Where if any pattaking or factions chanced to arise about the matter, the people at the request of the Tribunes appointed one thereunto by commission. As it did *Scipio Africanus*, to whome the people gaue commission for the manning of the warres in Spaine and Affrike, and by that meanes drew *Hannibal* out of Italy, and discharged that country of a long and most dangerous war. The like commission was without lot extraordinarie by the people also granted to *Paulus Æmylius*, to make warre against *Persens* king of Macedon. And so also to the great captaine *Pompey* against the pirats, by the law *Gabinia*, and against king *Mithridates*, by the law *Manilia*: all they which the yeare before had borne office, beeing reiected, the people naming whome they pleased and best liked. Howbeit that this was no vsuall matter, but right seldome times done: For ordinarily the Consuls, Prætors, and Quæstors discharged, and so going out of their offices in the cities, cast lots for the prouin-

The gouerners
of the prouinces
in the Romaine
empire nothing
but commissioners.

The cause of the
civil war betwixt
Silla and Marius.

prouinces, if they could not otherwise agree for the government of them among them. **E**
 felues : and for that the charge of the warre against *Mithridates* by lot fell vnto *Cor.*
Sylla, Marius by the working of *Pub. Sulpitius*, one of the Tribunes by him suborned,
 caused it to be by the people taken from him ; and by extraordinarie commission giuen
 vnto him selfe : which was the cause of the most cruell and bloodie ciuill warre that
 euer was in Rome. So also was the prouince extraordinarily appointed vnto *Cato*
Vticensis, against *Ptolomee* king of Cyprus ; which by him vndertaken, *Clodius* boasted,
 That he had pluckt out *Cato's* tongue, which had alwaies before beene at libertie to
 speake against extraordinarie powers and commissions . Sometime also if the horrible-
 nesse of some enormous fact required a more seuerer triall, the matter was propounded
 vnto the people, who put it ouer by commission vnto the Senat ; which out of the **G**
 bodie of it selfe appointed some one or more, not onely for instructions , but euen to
 heare and end the matter . As when *Lucius Tubullius* the Pretor, had with grievous ex-
 tortion most filthily polluted the Tribunall seat, and peruerter iustice ; so that the peo-
 ple leauing the ordinarie course, and the magistrats to whom the hearing of the mat-
 ter belonged, referred it wholly vnto the Senat by extraordinarie commission : the Se-
 nat forthwith deputed *Cn. Scipio* to iudge and end the cause . So also when *Tiberius* the
 emperor by commission appointed the Senat to enquire of the murders committed be-
 twixt the Nucerians & Neapolitans : the Senat deputed the Consuls to enquire therof.
 Yea sometime the senat without commission from the people, but as it were by meere
 soueraignty appointed commissioners, if the case in question were committed in Italy, **H**
 out of the territorie of the citie of Rome, as a thing belonging to the Senat, apart from
 all others ; as saith *Polybius* : as it happened in a straunge robberie and murder, wherof
Cicero speaketh in his booke *De Claris Oratoribus* ; to the hearing whereof (hee saith)
 the Senat deputed the Consuls. By which examples here before produced, it appeareth
 that Commissioners appointed by the prince, or people hauing the soueraigntie, whe-
 ther they be magistrats or priuat men, may appoint their deputies, and so commit the
 matter to others, if it be not exprelly forbidden them by their commission so to doe ;
 or that question be of the estate it selfe in the commission : as the ambassadours or
 Commissioners which are to entreat of peace, or alliance, or other such like things can-
 not commit the same to others . As is also to be said if question be of the life, fame, or **I**
 state of any man : wherein the manner and examination for better instructions may be
 deputed to others, but not the iudgement it selfe, except the iudge before appointed by
 commission excuse his absence by sicknesse or some other lawfull cause . But *Iustinian*
 the emperour afterwards ordained better by forme of a perpetuall edict , That Com-
 missioners appointed by the prince, should depute nothing of their commission to
 others more than the instructions of the suit : neither thought he that sufficient , but
 decreed also, that the Commissioners appointed by the prince should themselues heare
 the appeale, and instructions of the suit . But to meet with all that is to be met with, the
 most sure rule is to haue al that is committed, particularly in the commission, expressed,
 and so the commissioners to be ruled by the commission, as is the manner in all well **K**
 established Commonweals.

Whether commis-
sioners appoin-
ted by the prince,
or people hauing
the soueraigntie,
may appoint
their Deputies
and so commit
the matter to o-
thers.

Diuers waies
whereby com-
missioners cease.

And albeit that a man might make many questions concerning commissions
 graunted, as well by the soueraigne prince, as by the magistrats, in time both of peace
 and warre : yet will I thereof touch but two or three, and those most necessarie to bee
 vnderstood of them which haue the managing of the affaires of state , whether it
 be in peace or warre. Wherfore leaning the rest, and to bee brieve: wee say that the
 commission ceaseth by the death of him that graunted the same, or by his reuoking
 of the commission : or in case that the commissioner during the time of the commis-
 son

A sion, obtaine some office or preferment equall to him that graunted the commission: for then one of them cannot commaund the other. But as for the expresse reuocation declared by the princes letters or edicts, concerneth as well them which are ignorant of such reuocation of their authoritie and commission, as them which know it. And albeit that the acts of a commissioner so reuoked, done after the reuocation of the commission, and yet before the knowledge of such a reuocation to him giuen, hold for good but in regard of particuler men, towards whom the commissioner hath executed his commission; and especially, if they haue voluntarily yeelded vnto the commissioner, knowing the commission to be already reuoked: and that towards others the acts of the commission after the reuocation of the commission, are of none effect by the rigour of the law, yet equitie and reason bindeth them thereunto, vntill that the commissioners or appointed iudges doe know that their commission is reuoked. For as a commissioner hath no power vntill he haue receiued his commission: so likewise the commission dureth, vntill the reuocation thereof be signified; or at leastwise vntill the commissioner know that it is reuoked. And therefore *Celsus* sayth, that the acts of the gouernour of a prouince are good and auailable, if the commissioner know not that his commission is called in. And although Pope *Innocent* were of opinion, that it was otherwise to be iudged, if question were of life or honour, and was therein of many followed, yet he continued not in that opinion. And albeit that he was a pope & soueraigne prince, and a man most skilfull in both the lawes, yet willed he no greater authoritie to be giuen vnto his writings than to other mens, neither to rest thereon further than there were good and strong reason therefore. But to take away these ancient difficulties, the secretaries to the state haue vsed to ioyne vnto commissions, and almost to all mandats and letters pattents this clause, *A die qua rescriptum Significabitur*, From the day that the rescript shall be notified: which clause if it be omitted, yet is it alwayes necessarily to be vnderstood. And thus much concerning the expresse reuocation of a commission.

Whether the acts of a commissioner done after his commission reuokd, and yet before he had knowledge of the reuocation thereof, be good or not?

A good decree of Pope Innocent the fourth.

D So also a Commission taketh end by the death of him that graunted it, bee hee prince or magistrat; provided alwaies, that the thing committed bee yet whole and entire: for otherwise the commissioner may continue that which hee hath begun, so that it be done without fraud. But it is fraud in law, when a Commissioner not aduertised by a pursuant or expresse rescript (but by some other certaine meanes) of the death of the prince, the matter being yet whole, neuerthelesse proceedeth therein. Now the matter is not whole and entire, which cannot by the Commissioner bee left off without prouidence to the publike state, or to the right of priuat men: as in matter of iustice, if the parties haue contested, the thing is no more entire, but the Commissioners may and ought to go through with that they haue begun, whether it bee the prince or the magistrat that hath giuen them commission. And so in warre the matter is said not to be entire, if the battell stand ranged before the enemy, and that the retreat cannot without euident perill be made: in which case the generall is not to forbear the giuing of battaile, although he be certainly enformed of the death of the prince; or that it be forbid him to ioyne battaile. So if rebellion arise, which cannot otherwise be appeased but by the execution of the authors thereof; that is first to bee done, and afterward knowledge thereof to be giuen, (as saith the lawyer) although the death or countermaund of the prince happen or come in the meane time. Yet the commissions coming from the prince, or letters mandatorie, are in that different from the other letters royall, which they call letters of iustice: for that these continue in their force and vertue, whereas the letters of commaund expire after the death of the prince. Yet neuerthelesse the new prince oftentimes ratifieth that which was done by the commaundment

Whether a commission alwaies taketh end by the death of him that graunted it?

dement of his predecessour, although he died, the matter yet whole and entire, and the rather if it be well and for his profit done; which the magistrats cannot do to the commissioners by them appointed, for that their ratifications in tearmes of iustice are neuer to be receiued. And thus much concerning all the sorts of Commissioners.

Whether the
power of officers
end together
with the death of
the prince?

Now, that we haue already said of Commissioners, hath no place in officers, for that their power endeth not together with the death of the prince, although it bee in some sort holden in sufferance, and as it were suspended vntill they haue letters from the new prince, or confirmation from him for the continuance of their offices. And for this cause the parliament of Paris after the death of king *Lewes* the eleuenth, decreed that the officers should continue in their charge, as they had before done, vntill that they receiued commaund to the contrarie from the new king; following therein an ancient decree giuen in like case in the moneth of October, in the yeare 1380. Howbeit the court of Toulouse after the death of *Charles* the senenth, otherwise decreed than had the parliament of Paris, *viz.* That all their iurisdiction should cease, vntill they had receiued new commaundment from the new king; and yet that if any occurrents should chance wherein the authoritie of the court should bee requisit, that then the court should proceed by letters and commissions, intituled *The people holding the Parliament royall of Toulouse*, firm'd with the seale of the court, without any mention making of the king. But forasmuch as the king comming vnto his kingdome by right of succession, useth his maiestie before he be consecrated; as it was iudged by a decree of the parliament of Paris, the nineteenth of Aprill, in the yeare 1398 (contrarie to the opinion of many) it belongeth not vnto any officers, parliament, or Senat, to doubt of the power or maiestie of the prince: which if it were not, neither were they to haue any authoritie or power: neither are in any other sort to proceed, but as officers vnto the king, and vnder his obeysance. But if it were lawfull for the people to make choice of their king, as it is in Polonia, Denmarke, and Hungarie; (where the kings beeing dead, the maiestie of the kingdome is to returne vnto the people) another thing were to bee said: For then the magistrats vse not the princes name in the vacancie of the kingdom (for that then there is no king) but euery one of them do their lawfull acts and duties, as if they had such power from the Senat and the people) by force of the law, and power proper vnto the magistrats: whereas Commissioners and judges extraordinarily appointed, can by no meanes (the prince being dead) hold their authoritie and power; for that they do nothing by the vertue of the law or of ordinarie power: and not for that commissions be odious, and offices gracious (as some haue thought) for oftentimes a commission is more gracious, yea and more profitable also vnto the Commonweal, than any officers ordinarie power. And as for the decree of the parliament of Paris (bearing date the sixteenth of October 1381) whereby it was ordained, that the kings edicts and commands should haue like power the king being dead, that they had whilst he yet liued; that is so to be vnderstood, if the charge committed bee then begun to be put in execution. And therefore if the power of the magistrats be annuall, and the king die before the magistrats yeare be expired, yet may the magistrat neuerthelesse hold his office for his yeare: or if it be perpetuall, continue the same in such sort and so long as the law giueth him leaue, for that his office dependeth not of a simple commaund which may still be reuoked, or of a charge which cannot be recommaunded, but is grounded vpon a law, receiued, published, verified, and registred: in such sort as that his office cannot be suppressed but by a contrarie edict or law. As when question was for the suppressing of the militarie Tribunes, (for the discord betwixt the Senat and the people, before created with the power of the Consuls) and in their steads to restore again the Consuls, it could not be done vntill that by the law *Licinia*, that power of

Officers by laws
established, are
not but by con-
trarie edicts or
laws to be put
downe.

A of the Tribunes was againe taken away. And in our time when as the fift and sixt president of the parliament of Paris were to be suppressed, they were not yet therefore displaced (for that against their wils they could not, except that for some capital crime they had bene before condemned) but an expresse edict was made, that after their death none should be more placed in their roomes, but so their offices to bee suppressed. So by a generall edict made by *Charles* the ninth, at the request of the estates of Orleans, in the yeare 1560, all offices erected after the death of king *Francis* his grandfather, were againe suppressed. And oft times it happeneth, that one officer is by one law made; but more often, that many are made at once: as when threescore sergeants were at once created by one edict of king *Francis* the first; and the criminall judges at once erected throughout the realme by an edict in the yeare 1527, when as before the same man was judge both of criminall and ciuill causes. Which course was so straitly obserued and kept in the kingdome of Fraunce, as that the verie clarkes of the clarke of the parliament, were by expresse edict made an office, though afterwards by another edict againe suppressed, at the instance of the chiefe clarke, in the yeare 1544: as were other small charges, which the Roman Commonweale were by the magistrats themselves commonly giuen vnto their seruants, without any law at all. Neither is it sufficient for the magistrats and other officers to be by the law created, but that their successours also haue a particular declaration, to testifie that they haue obtained their offices, and yet no need of any new edict or law. And for this cause the princes commissions directed vnto the officers in the quality of officers, continue in force to their successors: for that the prince therein maketh choice of the magistrat or officer, and not of the person: but if choice be made of any mans person, whose name is expresse in the commission, he being dead, his successour in the same office cannot execute the commission, for that the prince made choyce not of the magistrat but of the person.

Yet there are other differences also betwixt an officer and a commissioner: for that the power of an officer besides that it is ordinarie, it is also better authorised, and larger than is a commissioners, & that is it for which the Edicts and lawes leaue many things to the consciences and discretions of the Magistrats: who indifferently applie and interpret the lawes according to the occurrents & exigence of the causes presented: Whereas Commissioners are otherwise bound, and as it were tyed vnto the verie words of their commission, and especially where question is of the affaires of state: as in the charges and commissions of Embassadours or Commissioners deputed to negotiate betwixt princes, where the Commissioners may not without danger of their lines passe one point beyond the lesson they haue in writing, if this clause (which is oft times put vnto the charges and instructions of Embassadours and Commissioners to treat with princes) be not thereunto annexed, *viz.* That if any thing else be to be done, the Embassadour shall at his wisdom and discretion, according to the chaunge of places, times, and persons, haue care thereof: much like vnto that clause whereof *Aeschines* the Orator speaketh in the oration which hee made for the defence of his legation; where he saith, that this clause put into the the commission of Embassadours, *viz.* That they should do whatsoeuer they saw to be for the common good; extended not vnto that they had in their expresse and particular charge: so that the foresaid clause extendeth not vnto the principall obligations and resolutions of treaties, as to the making or breaking of peace, but onely vnto the accessories and matters of lesse importance. As if question be of any thing to be graunted vnto the enemies or friends, for the enlarging of their power to the hurt of the Commonweale, it is not lawfull for the Embassadours without speciall commaund to intreat thereof: For seeing that in the lesse affaires of priuat men, an Attourney or Proctor hauing a generall authoritie with

The power of an officer or magistrat larger, than the power of a commissioner.

In matters of state
he that goeth be-
yond his com-
mission is wor-
thely blamed, al-
though that
things fall out
never so well.

full and entier power, may not yet for all that giue, acquite, or alienate any thing, or giue or take an oath of any person without a speciall charge; much lesse ought he so to doe in things touching the publike, and namely in things concerning the state: well may things done without commission, be confirmed, yet could they not of right without commission be so done. For albeit that in priuat matters he may say him selfe to haue well and duely executed his charge, which hath done it better than was to him inioyned, yet in publike affaires of the estate it is not alwaies so: for the Souldiour which hath assailed the enemy, or the Captaine which hath giuen battell contrarie to the Generals commaund, are both worthie of death, although they obtaine the victorie. For what could euer haue more honorable beene done, or more worthis eternall praise, than was that which was done by *Fabius*, collonell of the horsemen vnder *Papyrius Cursor* the Dictator: who with the losse but of an hundred men onely, slew twentie thousand of the enemies; and yet for that he contrarie to the Dictators commaund had ioyned battell with the enemy, he was brought in question of his head, neither had so escaped, had not the Dictator (overcome by the earnest intreating of the people) so rested contented. And therefore *Cesar* in like case speaking of one of his captaines called *Syllanus*, said him to haue done well and wisely in not giuing of battell, although he were sure to haue caried away the victorie: for that said he it is not the dutie of a captaine, to do any thing that is by his Generall forbidden him. Yea so much it concerneth not to doe any thing that is forbidden in matters of warre, as that the Lieutenant generall to an other man, ought not to giue the enemy battell, except it be so expressely giuen him in charge: which was the cause that the Countie of *Aiguemond* was shrewdly spent of the Spaniards, for giuing battell vnto the Marshall *de Termes* (although he therein tooke him prisoner and discomfited the French armie) for that he had hasarded the whole state of the low Countries, if he had lost the battell. But this latter point is to be vnderstood of such as be Lieutenants, or subiect to the commaund of others, who by vertue of their office haue not power to command. For an officer, as the Consull, or in his absence his Lieutenant; or with vs the Constable, the Marshall, or other Generall of the armie, placed as in title of office, to haue full and absolute commaund ouer the armie, and to mannage the warre, may by vertue of his office, and without attending any other speciall commaund, make warre vpon the denounced enemies, pursue them and giue them battell, besiege them, and take their fortresses and strong holdes, and dispose of the armie according to his discretion, if he haue not expresse commaundement to the contrarie from his soueraigne, and so his power suspended: yet hauing taken any strong places, or the enemies Generall, he may not without speciall commaund deliuer them, or yet make peace with the enemy. True it is, that in popular estates these points are not, neither can bee so straitly kept, the generals thereof themselves doing almost all; which in a Monarchie depend of the will and pleasure of one onely prince: For why it is more easie to know the pleasure of the prince, than of the people; of one man, than of many thousands. As we may still see in *Linie* large commissions by the people giuen vnto the generals of their warres; as in the warres against the Hetruscans, all power was giuen vnto *Fabius*, *Omnium rerum arbitrium & a Senatu, & a populo, & a collega, Fabio Consuli Commissum*, The disposing of all things (saith he) was both of the Senat, and the people, and his fellow in office committed to *Fabius*. And in another place, *Initio liberum pacis ac belli arbitrium permissum*, At the beginning the free disposing of peace and warre was committed vnto him. And yet neuertheless they kept this difference betwixt them which had the manning of their warres by vertue of their office, and them which did the same by commission; as that the Consuls, Prætors, and others, hauing power

Larger commissions
are to be giuen
to generals for
the wars in popu-
lar common-
weales than in Mo-
narchies, and
why?

- A** to make warre by vertue of their office, might auow and iustifie their owne actions, without any other ratification, except they had taken vpon them some thing that concerned the soueraignie of the people; whereas the Commissioners, if they therein passed their commission, must of necessity haue their actions by the Senat or by the people ratified. As *Pompey* hauing had commission for the manning of the warre against king *Mithridate*, passing farther made warre also against diuers other nations and people, at his pleasure bestowing the kingdomes, estates, and towns by him conquered and wonne: and albeit that the people would infringe or reuoke nothing of that hee had done, yet neuertheless after his triumph, he oftentimes requested the Senat, that those his doings might by it be ratified: and finding the Senat to make thereof difficultie, and to vse therein long delayes; he to strengthen and backe himselfe against his enemies, and such as were about to looke into his doings, ioined himselfe in friendship and alliance with *Cesar*, so to make themselves both of them the stronger. For albeit that hee had a generall commission, and that in that case all was at his discretion: and therefore (as some thinke) needed no ratification: yet is it not so, the generall clauses of commissions being alwaies to be interpreted and ruled to the best good and profit of the Commonweale, not in any thing giuing power to doe that is hurtfull vnto the publike state; which is not a thing lawfull or permitted euen vnto a priuat man to do, hauing a charge in generall tearmes committed vnto him. Wherefore these words expressed in commissions, be they *Gouernots*, *Captaines*, *Iudges*, or *ambassadors* (for things to be done)
- C** *At their discretion according to their wisdom*; or *at their will and pleasure*: and others such like, are still to be so interpreted and vnderstood, as euerie good and wise man would interpret and vnderstand them, still respecting the good and profit of the Commonweale: wherein if any fault be committed, account thereof is to be giuen; the least fault that can be, being still in matters of state, and publike interest to be enquired after: no excuse of error, or ignorance, being therein to be admitted or accepted. And much the lesse, if he which hath taken vpon him such publike charge had it not laid vpon him, but was by him sought for: neither offered vnto him, but by force by him extorted. For if priuat mens faults, when they haue taken vpon them the charge to do any thing one of them for another (although it bee of their owne accord) be not excusable; how should they then be excused in matters concerning the state and Commonweale.
- D**

General clauses in commissions for things to be done according to the description of the commissioners how they are to be vnderstood?

- But to the intent that the force of Commissions and offices may the better bee vnderstood, it shall not be amisse to produce the examples of the aunient Romans, and to compare their manner of speech in the making of them, with that of ours. As in that which *Festus Pompeius* saith, *Cum imperio esse dicebatur apud antiquos, cui nomen a populo dabatur imperium*, He was said of the auntients to haue power, to whome by name power was by the people giuen: which is asmuch as to say, by expresse commission, without appeale vnto any other magistrat, vnto whome so authorised the law gaue power to command: For that a magistracie or office cannot be without power to commaund. So we see in *Linie*, at such time as *Hannibal* besieged Rome, *Placuit omnes qui Dictatores, Consules, Censoresue fuissent cum imperio esse, donec recessisset hostis a muris*, that is to say, A decree was made (or commission giuen) that all such as had bene Dictators, Consuls, or Censors, should haue power and authoritie to command, vntill the enemy were departed from the walles. So *Cicero* speaking of *Augustus Caesar* saith, *Demus imperium Cesari, sine quo res militaris geri non potest*, Let vs giue (saith he) power and authoritie vnto *Cesar*, without which militarie affaires cannot be managed. For why, *Octavianus* yet but yong, could by the law neither beare office, nor lead the armie, much lesse without power and authoritie take vpon him a generals charge:

How the auntient Romaines gaue extraordinary power vnto their generals by commission.

charge: and therefore *Cicero* perswaded, That the charge for the manning of the warre should with power by commission be given vnto him: which place of *Cicero* hath much troubled both *Signius* and *Gruchius*. For had *Octavianus* bene either Consul or Prætor, *Cicero* would not haue vsed these words, for that he should then by law haue had the power and commaund of a magistrat.

The manner of propounding of requests vnto the people for the creating of magistrates and commissioners in auncient time diuers.

Beside this, there was also a notable difference betwixt the manner of propounding the request for the creating of a magistrat, and of a Commissioner: For the magistrat was vsually created by vertue of the lawes before made; the magistrat thus asking the people, *Quos vellent Consules fieri*, Whome they would to be made Consuls? and so of the other magistracies and offices being vacant. But for commissions of command, they vsed these words, *Vellent inherere ut huic vel illi imperium esset in hac vel illa provincia*, If they willed and commaunded that this or that man should haue the gouernment in this or that prouince. As is reported of *Scipio Africanus*, who had commissi- on with power to commaund, although he were not yet of age to beare office, or to be a magistrat. And *Cicero* speaking of all sorts of commissions saith, *Omnes Potestates, Imperia, curationes, ab vniuerso populo proficisci conuenit*, It becometh al potestats, commaunds, and commissions, to come from the bodie of the whole people. Where by the word *Potestates*, he vnderstandeth the gouernours of princes, who were properly so called. And by the word *Imperia*, Captains, who had particular commission to manage the warres (howbeit that the word *Imperia*, is vnderstood also of the ciuill magistrates) with power to commaund. By the word *Curaciones*, is meant all other charges, without power to commaund. The word *Imperator*, signifieth properly a generall or chiefe captaine, as *Plinie* speaking of *Pompey*, *Toties Imperator antequam miles*, So often a generall before he was a souldior. But generally the word *Curatio*, importeth all sorts of commissions; as is easily to be gathered by this place of *Cicero*, *Idem transfero in magistratus, Curaciones, Sacerdotia*: The same I transerre into magistracies, Commissions, and Priesthoods; which are the three sorts of publike charges. *Vlpian* the lawyer allo well distinguisheth a magistrat from him whome he calleth *Curator republicæ*, of whome he hath made an expresse booke: whome the law calleth by a Greeke word *λογιστῆς*; who had no power to condemne, nor to appoint any fine, which was lawfull for all magistrats to do, as we haue before showed.

How commissions passe into the nature of offices.

But it is to be noted, that al commissions passe into the nature of offices, as oft as that is by law made an ordinarie charge, which was before done by commission, as we haue by the examples of our owne Commonweale before declared. And that which was before given at the pleasure of the magistrats, becometh also an office, if he that hath the soueraigntie doth by law establish the same. As in auncient time the Consuls, as it were by commission made choice of the six Colonels, whome they called *Tribunos militum*, vntill that about 642 yeares after the foundation of the cite of Rome, it was by an expresse law (made at the request of the Tribunes of the people) set downe and decreed, That from that time forward it should bee an ordinarie office, and the people to haue the choice of them: which was euer after obserued, except some such great warre were in hand, as that it was thought needfull, that extraordinary choice should be made of those Colonels by commission: As in the Macedonian warre against king *Perseus*, *Licinius* and *Cassius* the Consuls, made a motion vnto the people, That the Tribunes, or Collonels of the souldiors, might for that yeare bee choten by the Consuls, as indeed they were. So likewise in auncient time also, the Consuls, Prætors, and other great magistrats made choice of their slaues and seruants for their vsers, secretaries, sargeants, Trumpetors, and such like; as they did also in this realme, vntill the time of *Philip* the Faire, who was the first that tooke this power from the bailiifs and sene- schals,

A schals, and yet leauing vnto the lords justices, power to establish sergeants and notaries in the prouinces of their iurisdiction and territorie. And in like case the kings attourney generall, in the time of our fathers, made choice of such aduocats as hee thought best for the pleading of the kings causes; who are now as ordinarie officers created by the prince himsele, the particulat commission before giuen vnto the attourney generall, being conuerted into the forme of a most honourable office. And thus much in generall concerning Commissioners and officers: it followeth now that wee should also speake of Magistrats, and of such other things as are vnto euerie one of them properly belonging.

CHAP. III.

¶ Of Magistrats.



Magistrat is a publike officer, which hath power to command in a Commonweale. And an Officer we said to bee a kind of publike person, who hath an ordinarie charge by law appointed vnto him. But a Commissioner wee said to bee a publike person also, with a publike, but an extraordinary charge, at the pleasure of the prince. Now orderly proceeding required that wee should before speake of Commissioners, then of officers; for

What a magistrat is.

C that they were before any lawyers or Officers established. For right certaine it is, the first Commonweales were by soueraigne power gouerned without law, the princes word, becke, and will, seruing in stead of all lawes, who both in time of peace and war, by commissions gaue out charge to whome they pleased; and againe at their pleasure reuoked the same, all depending of their full and absolute power, being themselves not bound to any lawes or customes at all. And that is it for which *Pomponius* writeth, the Roman Commonweale to haue bene at the first gouerned by regall power, without vse of any law. And *Iosephus* the historiographer, in his second booke against *Appian*, desirous to show the most honourable antiquitie of the Hebrewes, and of their lawes, saith, That *Moses* of all others was the first that euer writ lawes. And that in D fve hundred yeares after, the word Law was neuer heard of. Alleaging in prooffe thereof, That *Homer* in so many books as were by him written, neuer vseth this word *νόμος* or Law: a good argument that the first Commonweales vsed not but Commissioners, considering that an officer cannot be established without an expresse law (as we haue said) to giue him his ordinarie charge, and limited to a certaine time: a thing seeming to diminish from the power of soueraigntie. For which cause kings and princes (iealous of their state and greatnesse) haue vsually annexed vnto all their letters pattents of office, an auntient clause retaining the marke of lordly Monarchy, viz. *That the officer should enioy his office so long as it stood with the princes pleasure*. Whereby it appeareth the officers power to depend of the princes power, rather than of order. And E albeit that this clause be to no purpose in the kingdome of Fraunce, for that by a law by *Lewes* the eleuenth established, ordinarie offices and charges, by the prince once lawfully bestowed, cannot from them on whom they are so bestowed be againe taken, except they haue committed some criminall cause worthy of death; and that in Spayne, England, Denmarke, Sweden, Germanie, Polonia, and all Italie the like order be obserued: yet for all that, the Secretaries of estate neuer forget the same: a great argument that all charges and offices were of auntient time in the nature of commissions; which whither it bee profitable vnto Commonweales or not, shall in due place be hereafter declared. But let vs before speake of the Magistrat which whaue before de-

The first commonweales gouerned without lawes.

Moses the first that euer writ lawes.

finied to be a common or publique officer with power to commaund.

Al magistrates to
be officers but
not al officers to
be magistrats.

Al magistrates to
haue power to
commaud.

Now there is no lesse difference amongst writers betwixt the officer and magistrate, then there is betwixt the officer and commissioner. For albeit that euerie Magistrat be an officer, yet euerie officer is not a magistrat; but onely they bee Magistrats which haue power to commaund, which their greeke names ἀρχαί, and ἀρχοντες well declare; as who should say Commanders, and the latine word *Magistratus*, which is asmuch as to say masters and commanders. And for that the Dictator was he which had the greatest power to commaund, the auntient writers called him *Magister populi*, the word Dictator signifying a Commander; as who should say, saying the word, and it was done: for that *edicere* is as much as to commaund, which is proper vnto Magistrats: for that edicts are the Magistrats commaunds. Howbeit that many herein deceiue themselues, who supposing the bookes written in latin in the name of *Mar. Varro* to be his, say that the Dictator is so called, *quasi dictus ab interrege*, as so called of the *Interrex*: But by the same reason the Collonell of the horsemen might be also called a Dictator; for that he was then also so appointed by the Dictator, as is to be seene through all the historie of *Liue*, and should rather be called *Dictatus*, as a man appointed; in the signification palsiue, than *Dictator* in the actiue. Wherefore *Dionysius Halycarnassensis* *Varro* his domestically friend better saith, the Dictator to haue beene so called as an *Edictator*, that is to say, a soueraigne commaunder, and was therefore called *Populi magister*, or the Master of the people.

Aristotle by the
author impug-
ned.

* *Instit lib. 3.*
Politie.

Now we haue before declared the definition of a Magistrat by the yonger lawiers, and by *Aristotle* himselve set downe, to be in no wise to be allowed or maintained: who call none but him a Magistrat which hath a deliberatiue voice in iudgement, and in the priuie counsell, with power to commaund; and principally saith hee to commaund: for in his sixt booke *de Republica*, seeing the number of officers to be infinite, whom he calleth all ἀρχαί, a name proper vnto Magistrats hauiing commaund in the Common weale: he findeth himselve therein much entangled, for that he seeth others also besides them necessarie for the ornament and glorie of the Commonweale: and then after them all the Magistrats, ministers, as Sargeants, Vshers, Secretaries, Notaries, all whom he calleth by the common name of Magistrats: euen as he doth them which haue power to commaund: and so passing on further, saith, such ministers to haue also power to commaund, τῆς ἀρχῆς μετέχοντες. And yet for all that in an other place * he maketh question, whether that the Iudges and Orators are to be called Magistrats: whereunto he answereth, that a man may say them to be no magistrats, hauiing no part of the commaund of the Commonweale; And therefore *Cato Uticensis* chastising the Registers, Comptrollers, and Receiuers, you ought (saith he) to remember your vocation, and that you are but ministers, and not Magistrats, as *Plutarke* reporteth. As for Preachers and Orators whom he calleth ἐγκλησιαστές, if so it be that they haue no commaund or ordinarie power, it is right certein that they are no magistrats at all: but yet often times they are also Magistrats, I meane such as in Popular and Aristocratique estates and Commonweales haue power to perswade or dissuade the people, to or from such things as they thought to be for them vnprofitable or disprofitable, whom they called Rhetoras. Howbeit that in Athens euerie particular man, (so that he were fiftie yeres old) had of himselve power to speake; and the rest by the magistrats leaue: whereas in Rome it was not lawfull for any man to deliuer any speech vnto the people, but by the leaue of the chiefe Magistrat in the assemblie. And as for the doubt that he maketh of Iudges, as whether they be Magistrats or not, the resolution is easie, if we will graunt the diuision of iudges set downe by *Iustinian*, the emperour to be good: which is, that some of them be Magistrats, and some of them

be

- A** be not. We must therefore now confesse, that amongst them which haue publique and ordinarie charge; that is to say, of Officers, some of them are Magistrats, (*viz.* such as haue power to commaund) and some of them not, (as hauing no such commaunding power) but seruing onely as the magistrats ministers: which diuision seemeth vnto vs necessarie for the auoyding of such businesse as might arise of a diuision of it selfe imperfect. Wherefore we haue said that such publique persons as haue an ordinarie charge limited vnto them by lawes, or by edicts, without any commaund at all, to be simple officers, whom the Emperours of latter times often times in their lawes call *officiales*, being indeed but ministers vnto the magistrats. The auncient Doctors of the law haue for most part followed the opinion of *Accursius*, who set downe
- B** neither any definition nor distinction of Officers; nor of Commissioners, nor of Magistrats; but simply saith, That there are foure sorts of Magistrats, *viz.* them whom they called *Illustres*, the *Speſtabiles*, the *Clarissimos*, and the *Perſectissimos*, to whom he giueth all commaund. All which are rather honorable qualities and titles attributed vnto the magistrats and Officers, according to the conditions of their persons. Howbeit that in this diuision of them also according to their titles and qualities, he hath left out the *Patricij*, who were of greater reputation and dignitie than the rest: as also the *Augustales*, who were superiours vnto the *Clarissimos*: for why *Iustinian* the emperor appointeth these degrees of honour, the *Patricij*, *Illustres*, *Speſtabiles*, *Clarissimi*, *sive Speciosi*, and the *Perſectissimi*, all which honors and titles were giuen aswell vnto
- C** priuate men as vnto magistrats. But as for that which *Bartholus* saith, That there are some which haue honour without charge; as Counties and Marquises, vnto whom for all that he attributeth power to commaund, and the administration of justice, it deserueth not answer; for that he therein is most manifestly contrarie vnto himselfe. So also is there small probabilitie in that he saith, Scholmasters as magistrats to haue iurisdiction ouer their schollers, and power to establish lawes and ordinances: for so domesticall power and the discipline of families should be also altogether confounded with the publique iurisdiction, which we haue before shewed to be a thing impossible. *Alexander Imolensis* the greatest lawier of his time, hath touched much neerer the true definition of a Magistrate: in that he saith, None to be Magistrats but they
- D** which are ordinarie judges; And yet is not this enough: for why they are such magistrats as haue power to commaund, and yet haue not any ordinarie iurisdiction: as the Censors, and the Tribunes of the people. And so to the contrarie some there be (which being no magistrats) haue an ordinarie iurisdiction, but without any commaunding power, without Pursuant or Sargeant, as had in auncient times, and now also in euery place the Bishops, who haue the hearing and determining of all sacred and religious things, and yet were neuerthelesse no magistrats. The Bishops saith *Lentulus* are judges of Religion, and the Senat are judges of the law. So one may see neither the auncient nor late writers to haue handled this point, or yet so much as touched the difficulties or differences of Officers, Magistrats, and Commissioners, as the matter well deserued. And albeit that the true definitions of Magistrats, officers, and commissioners be not to be found in the papers and writings of Lawyers, yet are the same to be gathered from them, and from the discouſe of good histories. For *Vlpian* writeth it to be lawfull for all magistrats, excepting the *Duumviri*, by inflicting of iudiciall pains to defend their iurisdiction: which extendeth not onely vnto the imposing of fines vpon the offenders, but euen to the attaching of their goods and bodies, and casting of them into prison. And yet it appeareth (may some say) that *Vlpian* hauing excepted these *Duumviri* (who were in like power that the Sherifes were in townes without any iurisdiction at all) yet neuerthelesse accounteth them in the number of Magistrats,
- Which officers
be also magi-
strats.
- Accursius and
Bartholus censur-
ed.

and seemeth also to say, these Duumviri to have also had iurisdiction: For otherwise **F** in vaine were they excepted, if they had not such authoritie and power. And yet the same lawyer in another place saith, these Duumviri to have had no iurisdiction nor the hearing of any causes whatsoever, but were onely to receive needfull cautions, and to deliuer possession: which favoured more (as saith he) of power than of iurisdiction. And yet in this case (saith he) they were but simply the Prætors deputies, who in their absence gaue them this commission, for preventing of the danger which might in the meane time happen, if men of necessitie must be driuen to runne still vnto the Prætors: who in like case also afterwards gaue them power to appoint tutors vnto the poorer sort of orphanes for the preservation of their goods. Whereby it is euident them to have had no iurisdiction or power by vertue of their owne magistracie, but onely part **G** of the Prætors iurisdiction, and that also by leaue and sufferance. But they which haue nothing but such deputed or precarie iurisdiction, can of right call nothing thereof their owne: Wherefore whether the power of the Duumviri consisted onely in ha- uing power to commaund, or in iurisdiction, it was vndoubtedly but by leaue and suf- ferance: whereby it is to be vnderstood, these Duumviri not properly to haue bene at all magistrats. But they which haue power to commaund, together with iurisdiction, may call men before them, attache them, and with penall iudgement defend their iurisdiction, & also put their iudgements in execution: wheras they which haue power on- ly to commaund without any iurisdiction, may well cause a man to be apprehended, but not proceed further. And in that some are deceiued, who for that by the old law Alteria **H** Tarpeia power was giuen to all magistrats, to impose fines vnto the summe of three- score six shillings, therefore suppose all magistrats to haue had iudiciall power also. For if the fine were by the magistrat imposed for publike iudgement sake (as by a Tri- bune of the people,) it was lawfull for the partie that was so fined either to pay the fine, without further examination of the matter, or to appeale vnto the people, and so to trie the cause of his fine, as is in *Liue* oft times to bee seene: which was done by the law Icilia. For why the fine of it selfe inflicted not any infamie vpon the partie so fined, but for the publike crimes sake: as the punishment of beating with stauces im- paired not any mans reputation, but the cause wherefore he was so beaten. But if a fine **I** were set vpon him that had not obeyed the magistrat sending for him, or for not aun- swering being asked, or for any other cause, not impairing his credit; it was lawfull for the magistrat by taking of distresse to exact the fine, without appeale: For that by the law Tarpeia, there was a certaine stint and measure for fines appointed and set downe vnto the magistrat, that so the disobedient citisens might without any trouble of the state be kept in order, and their insolencie restrained.

The auncient
fynes that the
Romaine magis-
trats were to
impose vpon of-
fenders.

Now the least fine vpon any man to be imposed, was one sheepe; and the greatest two oxen, or thirtie sheepe: which for that according to the diuersitie of the cattell it made the penaltie either lighter or heauier, and for that they could hardly be brought and looked vnto in the citie, a sheepe was valued at ten asses, and an ox at an hundred, **K** that is to say, at so many pound of brasse. But afterward the riches and territorie of the Romans encreasing, extraordinarie and greater fines were imposed, if greater cause so required. As *Liue* writeth of *Fulvius*, who for that hee being Prætor and generall against the enemy, the Roman armie was put to flight, and he the Prætor reported to be the first that fled; the Tribunes of the people fined him at thirtie thousand peeces of brasse, when as before the greatest fine was but two oxen, or thirtie sheepe: howbeit that the fine was oftentimes forgiven, for that the sentence of the people condemning a man vnto a fine, carried alwaies with it the note of infamie.

And for that we are by way of discourse drawne thus farre, wee will here amend an

errour

Aulus Gellius amended.

A errour in *Aulus Gellius* (about this matter) not as yet corrected. For hee in his *Noctes Atticae*, speaking hereof, writeth, The greatest fine to haue bene of thirtie oxen, or two sheepe; in stead of thirtie sheepe, or two oxen: and thereof gathereth, that as then there were moe oxen than sheepe in Italie, and that it was thereof called Italie: the word *italai* with the Greekes, and with *Varro* signifying an ox. But *Dionysius Halicarnassens*, *Varro* his domesticall friend, writeth, That by the law *Tarpeia*, it was permitted to all magistrats, to impose fines: and yet a measure thereof to haue bene by the law appointed, *vi℥*. That the fine should not exceed two oxen, or thirtie sheepe at the most. In like errour offendeth *Festus Pompeius*, and in the same words with *A. Gellius*; so that the one of them seemeth to haue bene deceiued by the leading and authoritie of the other.

B Both of them also writ, a sheepe in auncient time to haue bene called *Ouis*, in the masculine gender, which yet you shall no where find; although wee see *Boues* for oxen, to be oft times vsed in the feminine gender: But it may bee that they mistooke *Duos Oues*, that is, Two Sheepe, for *Duos Boues*, which is, Two Oxen. And least any man should thinke me to attribute more to *Dionysius Halicarnassens* a Grecian, than to *Au. Gellius*, or to *Festus*, both citisens of Rome, they themselues are of themselues refuted: For both of them confesse, the least fine to be imposed, to haue bene a fine of one sheepe; and the greatest, of thirtie oxen, or two sheepe: whereas (if they would haue agreed with themselues) they should haue said, the least fine to haue bene of one ox. Neither do we as yet see whome we may preferre in the searching out of the Roman antiquities, before this *Dionysius Halicarnassens*, excepting *Varro*, whose domesticall and familiar friend this man was, out of whome he had many good things: For as for the books which are in his name carried about in the Latine tongue, as wel the foolishnesse thereof declare them to be none of *Varroes*, as for that in them it is read, many things to be in them (spoken by contraries. But *Au. Gellius* writeth, *Varro* in his one & twentieth booke *Rerum Humanarum*, to call *Mulctam* a Sabine word: but the latter Grammarians to take it to be so called by the contrarie: whereby it is cleere those bookes not to haue bene *Varroes*. Yet these things which we haue written concerning the estimation of the cattell exacted for a fine, are confirmed by the authoritie of *Demetrius Phalerius*: For he writeth, a dramme of siluer to haue bene appointed by *Solons* laws, for a reward to him that had killed a shee wolfe; but siue drammes vnto him that had killed an hee wolfe: for that a shee wolfe easily killeth a sheepe; but that the he wolfe being stronger, killeth an ox. Whereby it is manifest, oxen to haue bene thrice as cheape in the countrey about Athens, as in Italie. For ten Asses, or the Roman Denarius ouer-weigheth the Greeke dramme. And in the same place in *Au. Gellius* there is another more notable fault, whete he saith, *Mulctam, quae suprema dicitur, in singulos dies institutam fuisse*, The fine which is called the greatest, to haue bene imposed euerie day: where the word *dies*, or daies, is to bee put out; for the meaning of the law was, that the greater fine might be exacted of euerie citisen in particular, if so be that many of them had in the same fault offended: for otherwise it had not bene lawfull for the magistrat the same day to impose diuers fines, if many had offended: whereof the impunitie of offences, and contempt of the magistrat should ensue. For prooffe hereof let that example of *Au. Gellius* serue, *Marco Terentio quando neque citatus respondit, neque excusatus est, ego ei ouem mulctam dico*, Forasmuch as *Mar. Terentius*, being summoned, answered not, neither made his excuse, I set the fine of a sheepe vpon him. Another errour also there is in *Festus*, whete he writeth *T. Menenius Lanatus, & Sestius Capitolinus* the Consuls, to haue made the law concerning fines: for it is a thing not heard of, lawes to haue bene made by the Consuls: and as for that law it was made in the yeare 297, after the building of the citie: in which yeare *Sp. Tarpeius*,

The auntient
manner of fynes
imposed vpon
offenders in
Rome in Cattel,
conuerred into
fynes in money.

Power to com-
maund fit an-
nexed to iuris-
diction.

peius, and *An. Aterius* were chosen Consuls : but true it is , that about six yeares after *T. Menenius*, and *Pub. Sestius Capitolinus*, being Consuls, made a request vnto the people, That the fine before imposed in cattell, might be conuerted into money , valuing euerie sheepe at ten Asles, and euerie oxe at an hundred . But whereas *Dionysius* writeth it to haue bene lawfull onely for the Consuls to impose a fine , ought not to seeme strange ; for that at such time as the law was made, there was neither Prætor nor Ædile in Rome , the first Prætor being there made 386 yeares after the foundation of the citie . And *Cicero* hauing as he thought best, made lawes for his Commonweale, which he to the imitation of *Plato* had conceited , amongst the rest made one, whereby he giueth vnto all magistrats iurisdiction and diuination . But they which thinke the same to haue bene the verie Roman lawes which we see in *Cicero*, are much deceived ; as we will hereafter show, all magistrats not to haue had also iurisdiction , which yet seemed vnto *Cicero* both good and profitable . And yet the magistrat that hath iurisdiction (to speake properly) whether it be that he haue it in his owne right , or from others, hath also (saith a certaine lawyer) all such things as without which he cannot exercise that his iurisdiction ; that is to say, power to commaund : which is still said to be annexed vnto iurisdiction, and without which iurisdiction is but vaine and to no purpose . Whereof it followeth, that the iurisdiction of the auntient bishops, and of our bishops also, without power to commaund, was not properly a iurisdiction, but onely a simple hearing and vnderstanding of matters . For that which *Lucullus* the bishop said in the Senat, The bishops to haue bene the iudges of religion, and the Senat of the law , tendeth to that end, and is so to be vnderstood, as that when question is of religion, credit is to be giuen vnto them, as is vnto other men skillfull in their professions and trades ; or as vnto iudges appointed either for the bare examination of the fact, who are properly called *Recuperatores* (or as we terme them Delegates :) or for the vnderstanding of that is iust and right, who more truely are arbitrators by law appointed, and not by the agreement of the parties, and yet are often called iudges . And therefore wee see the Vestall Virgins (in *Liue*) which had polluted their virginie, to haue bene alwaies chastised and punished by the Prætors of the citie , but neuer by the bishops. And so when *Publius Clodius* was about to haue committed adulterie with *Pompeia Casars* wife, in the temple of the goddesse *Bona Dea*, the full Senat had the determining of the matter, concerning the religion and sacrifices by him polluted . So in the beginning of the Christian religion, the Christian bishops (as *Augustine*, *Nicephorus*, and *Iustinian* do witnes) had not so much as the least iurisdiction of any matter , or the examination of the priestes themselves : howbeit that *Iustinian* graunted to them the examination of them that were of their owne order and calling . Neither would our auncestors haue any part of commaunding power to be giuen vnto bishops, and that the court of the parliament of Paris, hath oftentimes by the decrees and ordinances thereof witnessed . But why then (might some man say) do we see consistories, prisons, examinations, and fines to be permitted vnto bishops ? What other thing else do all these things declare, but a meere commaunding power ? Yea *Philip* the Faire, and king *Lewes* his sonne, granted vnto the bishop of Paris power to apprehend and arrest men offending in his Diocesse . Howbeit I suppose those former things to belong rather to their vocation, than to their power to commaund ; for that the execution thereof belongeth vnto magistrats : and yet such power of staying and apprehending graunted to the bishop of Paris was by a decree of the Senat forthwith againe from him taken . And although that not long since *Henrie* the second had graunted vnto all bishops the power to stay and apprehend men for heresie and impietie : yet neuerthelesse was that law shortly after againe abrogated . Yea the bishops themselves do in their owne decrees professe them-

A themselves to haue no power for the execution of any thing: yet is it with vs permitted vnto them, to stay and apprehend offendours, within the boundes of their consistories and courts; so that they go no farther.

And when as fines contrarie vnto the lawes were by the Bishops vpon men imposed, the Parliament of Paris receiued euery mans free appeal from them: yea and afterwards power was taken from them also, for calling of men before them; which they call, A liuely summoning or Citation. For there is an old decree yet extant, whereby the Bishop of Paris was grievously fined, for that he had vsed such calling of men before him. But when as the Bishops vnder the colour of ministring of oathes, and of the contempt of Religion, had with vs drawne vnto themselves the hearing almost of all matters, (for *Alexander Immolensis* was of opinion, the power of administring an oath to be sufficient to giue vnto the Bishops iurisdiction also) the greater Courts forbad them vnder the colour of ministring an oath, to take vnto them the hearing of any matter. And at length it was forbid them also to haue the hearing of the causes concerning the possession of benefices: and so after much, long, and hard sute, prouided for by the decree of *Martin* the fift Bishop of Rome; which decree is yet extant in the publique records. Yea the Spaniards truely, the most earnest defendours of the See of Rome, would not that their Bishops should haue to doe with any publique or priuat iudgements: except it were for Religion and Church matters, of which opinion I see *Felinus* (a man skilfull in both the lawes, and a most subtill interpretor of the Popes decrees) to haue beene. And albeit that certain ambitious decrees do giue vnto the Bishop of Rome more authoritie and power than to all other princes and people: yet pope *Innocentius* the fourth, and euery other good expounder of the law, haue long since reiected these decrees: with all such others as haue preferred the bishop of Rome before the Councell of other Bishops and Princes. And *Bartholus* himselfe when he had fearfully written, The subiects not to be guilty of treason, which for the honor and wellfare of the Bishop of Rome had taken vp armes against their prince; craued pardon for that his errour. Trulie in mine opinion it were better and more profitable also for the Commonweal, commaunding power to be giuen vnto Bishops together with so great iurisdiction as they haue: or else that their iurisdiction, to be restrained vnto the hearing of matters of religion onely; as we see the auntient Romans, the Swissers, them of Geneua, and the Germans to haue done. And yet the censuring of manners is of necessitie to be giuen vnto the Bishops: which beeing once taken away, I see not what course would be taken for the punishment of secret wickednes & villanie, whereof we will in place conuenient hereafter speake. Howbeit for all that, the imposing of fines is not to be permitted vnto bishops, or yet commaunding power to bee giuen them: For why should the magistrat be enforced to put into execution the vniust sentence of the bishop? for it is vitterly forbidden magistrats to enter into examination of the bishops proceedings: except appeale be made as from the bishop abusing his power, vnto the more higher courts; which with vs is seldome done, for the heauines of the penaltie, if it shall be found the appeal to haue bene made without iust cause: for so the interpretors of both the lawes determine the acts of magistrats which haue taken vpon them the determining of things belonging vnto the bishops, to be of none effect: as also if such things chaunce to be discided in the bishops consistorie as belong vnto the magistrat, they confesse them to be to no purpose. So that if a Priest be conuicted of incest, or of forgerie, before the magistrat, and confesse the same, in the bishops consistorie no regard is had of such his confesion made: for so it is in the Popes decree expressed. But when this case had happened, wherein the Popes Legat called before himselfe the acts and things done before the magistrat, & disannulled the same: appeal

The authoritie of the bishop of Rome not to be preferred before the authoritie of other princes.

was made vnto the parliament of Paris, where I remember it was long time doubted, whether the euident proofes wherupon the priest was before the magistrat conuicted, ought to be void or not; for of the rest of the acts it was lesse doubted: wherein the court at last iudged, That it was in the Councell to be discided. And againe when the like case was in question before the criminall iudges, I my selfe being present, the same court delayed againe the cause, and referred it vnto the Councell: least it should haue seemed either to abrogate the ambitious decrees of the Pope, or to giue vnto the wicked licence to offend. For what could be more absurd, than to suffer a priest by the law Cornelia conuicted of forgerie, and by witnesses published, by retracting the cause, to reiect the witnesses; and so when as no moe could iustifie the matter, freely and without punishment to commit villanie euen in the midst of the Commonweale? Our auncestours neuer handled the publique iudgements of priests, with diuided examinations: But the Court of Paris, although it often times by iust decrees either quite abrogated, or with equitie tempered the Popes decrees and ordinances, yet neuer more iustly than in this case: which when it had often times beene delayed, at length by a law made at Molines, that decree of the Popes law was with vs taken away. So by little and little are the Popes lawes to be cut short and abolished. For at first in the beginning of the Christian Church, the authoritie of Bishops was shut vp within verie strait bounds, which *Iustinian* would haue to extend farther by this law by him made. *Si quis aduersus Clericos, Monachos, Diaconos, Ascetrias, actionem habeat Episcopus iudex esto: sententiam vero episcoporum magistratus exequitor*: If any man haue any sute against Clarkes, Monkes, Deacons, or other the religious persons, let the Bishop be the judge, but let the Magistrats haue the execution of the bishops sentence: but the words of the law following, do giue leaue vnto the magistrat to examine the bishops sentence, except there bee an other judge by the prince appointed. Which words haue troubled many, doubting whether they ought to put in execution the bishops commaund or not, before they haue vnderstood of the equitie of the sentence. Now if no appeal be made from the sentence, most are of opinion, That it is without farther examination of the magistrat, to bee put in execution: but if appeal be made, that then enquirie is to be made of the equitie of the appeal, which yet some denie to be lawfull. Yet in mine opinion, if question be of the thing it selfe, or of the matter of the iudgement, and that the iudgement be not giuen contrarie to the Popes decrees, that then the magistrat ought not farther to enquire of the cause. But if the bishop shall by his sentence go about manifestly to infringe the popes lawes, whether the errour be in the matter it selfe, or in the forme of the iudgement; that then the magistrat may farther enquire of the sentence; that is, in case he abuse the popes authoritie and decrees. The magistrat may also farther examine the sentence, if the bishop shall in iudgement giue sentence contrarie to the lawes of the kingdome, although he seeme to haue grounded the same vpon the popes decrees: as indeed many of their decrees are quite contrarie vnto the positive lawes of Commonweales: in which case, the magistrat shall not suffer the lawes of the kingdome to be infringed by the Popes authoritie. In all other cases it is ment that the magistrat should faithfully put the bishops sentence in execution: and so with vs we vse. The same law, and like maner of proceeding the Easterne people vse also: with whom their Bishops haue the bare hearing of matters, and the magistrats the execution: for which cause the bishops haue neither sargeants nor pursuants, the chiefe tokens and marks of authoritie and magistracie.

But yet question might be made whether all magistrates haue iurisdiction and power to commaund or not: for that *M. Messala* the lawier, and *M. Varro* haue left in writing, That some magistrats had power to call men before them, and also to lay hands

Whether the civil magistrat be to put the Bishops sentence into execution, before he vnderstand of the equitie thereof or not?

The positive lawes of a kingdome not to be infringed by the Popes authoritie.

A hands vpon them: other some had power also onely to lay hands vpon men: and other which had power to doe neither the one nor the other: and that they which had power onely to lay hands vpon men, had also onely a Sargeant and nothing else: and that they which had power to doe both, had both Sargeants and mase-bearers: whereas they which had neither power to call men before them, neither to lay hands vpon them, had neither sargeants nor mase bearers. VVhen I say power to lay hands vpon men, my meaning is to haue power to seise vpon the bodie or goods of men; for by our customes many hauing prædiall iurisdiction, (or as we tearme them mannours) may lay hand vpon mens lands, but not vpon their bodies: which was not by the auncient Roman lawes permitted; of whom it is needfull here to speake, and in briefto

B declare their power, the more manifestly to show the power of all sorts of Magistrats, in euery kind of Commonweale. For the great magistrats, that is to say, the Consuls, Prætors, and Censors; and amongst the commissioners, the Dictator, and he whom they called the Interrex; then also the Proconsuls, the Proprætors, and in generall all the Lieutenants & Gouvernours of countries, had power to call before them not onely the priuat citisens particularly, but euen the lesser magistrats also: excepting the Tribunes of the people, whose bodies (for that they were most sacred) it was not lawfull to violate. Neither might these afore said magistrats onely summon and apprehend men, but it was lawfull for them also to punish and imprison them, and in briefto pluck downe and raze their houses and pallaces, who refused to obey these magistrats

C commaunding them. But the Tribunes of the people had no power to call men before them, yet had they authoritie to commaund any citisen to prison, yea euen the Consuls themselves. So *L. Drusus* Tribune of the people cast in prison *Philip* the Consull, for that he had interrupted him as he was speaking vnto the people: which then by the law was death. Beside that it was also lawfull for them to oppose themselves not only against all the magistrats, and the whole bodie of the Senat, but the opposition euen of one of the Tribunes was of power to stay all the proceeding of the rest of the Tribunes his fellowes in office: On which great power they presuming and bearing themselves, doubted not contrarie vnto the law to call men before them, and to take vpon them

D authoritie and iurisdiction. Which thing *Labeo* the lawier gaue them well to vnderstand, who being by one of them summoned, refused to make his apparance before him, openly protesting for defence of himself, That the Tribunes were not ordained or appointed for the administration of justice, or to haue iurisdiction, but onely to oppose themselves against the violence and abuse of other magistrats, and to giue ayde and succour vnto such as appealed being vniustly oppressed, and to imprison them which would not yeeld, and giue place to their opposition. So the Tribune *Sempronius*, seeing that the Censor *Appius* would not giue vp his office, after that he had bene

E eightene moneths Censor, (according to the law *Æmylia*, which had brought the tearme of fife yeares before prefixed to the Censor, vnto the tearme of eightene moneths) told him that he would thrust him into prison, if he obeyed not that law (which he did by consent of six others of the Tribunes his fellowes in office:) but *Appius* hauing practised with three other of the tribunes to oppose themselves against the commaundement of the other seauen, by that meanes held still his office: for why, the opposition of one onely of the Tribunes sufficed to stay the proceedings of all the rest, if order were not otherwise taken by the people, by taking from him his power and office; as by the request of *Tiberius Gracchus*, it was taken from *Marcus octanius* the Tribune, opposing himselfe against the law *Agratia*, that it might not take place. And this is it for which a Tribune of the people, speaking to the nobilitie said, *Faxo ne inuict vox ista VERO, qua Collegas nostros concinmentes tam lati auditis*, I will make

The power of the Consule and other the great magistrats in Rome.

The power of the Tribunes of the people in Rome.

(said he) that this word *VERO* shall not helpe, wherewith you so merrie heare our fellowes in office singing in accord together. And but a little after, *Contemni iam Tribunos Plebis, quippe qua potestas iam suam ipsa vim frangit intercedendo, non posse equo iure agi, ubi imperium penes illos, penes se auxilium tantum sit, nisi imperio communicato, nunquam Plebem in parte pari Reipublice esse*, The Tribunes of the people (he said) now to be contemned, as whose power did now of it selfe breake the strength of it selfe, by opposing of it self against it self, that things could not be there indifferently ordered, where the commaunding power was with the nobilitie: and onely the power of giuing help with the Tribunes. And that the people could neuer haue like part in the Commonweale, except the power to command were made common vnto both. The Tribunes complained the people to haue no magistrats which had power to commaund: the Tribunes (they said) to haue power to oppose themselves, and to yeeld the people reliefe, but yet to haue no power to commaund; neither that the comminalltie could be made equall with the nobilitie, except the offices and power to commaund were made common vnto both: and therefore they made request, That the Consuls might be chosen as well out of the comminalltie, as out of the nobilitie: which when it could not be obtained of the nobilitie, it was agreed, certaine Tribunes of the souldiours with the power of Consuls, to be indifferently chosen out of both sorts: which manner of gouernment continued fortie fiue yeares, without any Consull, vntill such time as that it was agreed, That one of the Consuls should be still chosen out of the people. Howbeit a man might say, That the Tribunes in so saying made their power lesse than indeed it was, they hauing power to oppose themselves, and to commaund men to prison; which is a part of power. For so *Vlpian* speaking properly and as a lawyer, saith, That it is not lawfull without leaue and commission from the magistrat, to call into iudgement the Consuls, Pretors, or Proconsuls, or generally any of them saith hee, *Qui imperium habent, & tubere possunt in carcerem duci*, which haue power and can commaund men to be laid in prison. And so wee conclude, that they which haue power to commit men to prison, although they haue no iurisdiction, are in right magistrats, as the Tribunes in Rome, the kings attorneyes in Fraunce, and the three Anogadours at Venice. Neither do I in that agree with *Plutarch*, who saith in his Problems, That the Tribunes were no magistrats, for that they had neither mace-bearer nor seat of Iuorie, the true markes (as he saith) of magistracie: for why, they had sergeants, the token of their commaund; as *M. Messala* affirmeth. And lesse is it to the purpose, that hee alleageth of *Appius* the Consull: of whom, contending with one of the Tribunes in the assemblie of the people, *Liue* thus writeth, *Tribunus viatorem mittit ad Consulem, Consul Licitorem ad Tribunum, priuatum esse clamitans, sine imperio, sine magistratu*, The Tribune sent a sergeant vnto the Consull, and the Consull sent a Licitor vnto him again, crying out, That he was but a priuat man, without power, without magistracie: For so the Consull said but to impaire the power of the Tribunes. Which for all that was so great, as that *Licinius Stolo* one of the Tribunes, was so bold, as by force to constrain *Manlius* the Dictator to depose himselfe of his Dictatorship. Another of them also committed both the Consuls to prison, for that they would not at the request of the Tribunes discharge ten souldiours from going to the warres. Yet true it is, that the power of the ten Tribunes of the people was shut vp and contained within the walles of Rome. And therefore *Mar. Fabius*, and *Luc. Valerius* the Consuls, seeing that they could not leuie their souldiours, for that the Tribunes opposed themselves against them, commaunded their chaires to be carried out of the citie, and so did there what they saw good. Yet oftentimes the Tribunes tooke vpon them more than belonged to their place, or than was by law permitted them, oftentimes propounding their edicts

The power of
the tribunes shut
vp within the
walke of Rome.

A edicts and prohibitions. Whereof *Liue* speaking saith, *Communitèr edicunt Tribuni ne quis Consulem faceret: si quis fecisset se id suffragium non obseruatueros*, The Tribunes generally forbade any man to giue his voyce to the making of a Consul, but if any man so did, that they would haue no regard of any such voyce giuen. Which was but an abuse, and presumption vpon the power of the people, to forbid them the free and entire choice of their magistrats: ouer whome in generall, albeit that no man could commaund, yet did the Tribunes so do ouer euerie one of them in particular, although they could by no right so doe. Moreouer they tooke vpon them the administration of iustice, to all such as came vnto them, as is if they had had power to call men before them: as it is to be scene in *Plutarch*, where hee saith, That the Tribunes administered iustice in the place which was called *Basilica Porta*. And *Æsconius Pedianus* saith, *Tribunos, Questores, Triumuiros, Capitales non in sellis Curulibus sed in subsellis iura dixisse*, The Tribunes, the Questors, and Triumviri, judges of criminall causes, to haue administered iustice not in Iuorie chaires, (as the manner of the great Roman magistrats was) but vpon their benches. And *Appian* also saith, *Liuius Drusus* the Tribune, to haue bene most diligent in the administration of iustice, and doing of right to euerie man. *Pomponius* also reckoneth the Tribunes of the people amongst the Consuls, Pretors, and other magistrats which administered iustice vnto the citicens and strangers in Rome. Wherefore *Cicero* saith them to haue bene called Tribunes of the people, for that they might examine the wrong done by the Pretors: which what manner of examination should it haue bene, if they had wanted iurisdiction? Yea they had not onely taken vpon themselves iurisdiction, but appointed also commissioners: and in many causes made them whome they called *Ædiles edituos*, their deputies or Lieutenants; which they could not haue done, had they not had authoritie and iurisdiction: For why, that authoritie thou thy selfe hast not, thou canst not giue vnto another. Howbeit yet all this their presumption was but vsurpation and abuse; as *Labeo* the lawyer well shewed them, who being sent for by them, would neuer (as we said) come before them.

The same opinion we are to haue of those officers or magistrats whome they called *Ædiles Curules*, who had neither power to call men before them, neither to attache any mans bodie; and therefore neither had mace-bearer nor sergeant, (as *Marcus Varro* and *Messalla* haue noted) and yet by the sufference of the Pretors vsurped a great part of their authoritie and iurisdiction. Which the Pretors of the citie oppressed with the multitude of causes easily suffered, at the first committing vnto them causes concerning the sale or alienating of things mouable: who afterward tooke vpon them to haue to do with lands and things immouable also: and after that drew vnto them also the hearing of courtisans and common harlots causes, who might by no meanes set vp that base and filthie trade of life, but that they must first openly professe the same before the *Ædiles*, and that they would prostitute themselves. Which the auntients did, to the iutent that such women as reason could not keepe within the bounds of modestie, should yet for shame of such publike profession (so lewd a life before the magistrat) be restrained. But after that in latter times many euen of the most noble dames in Rome (hauing together with their chastitie also lost their modestie) ashamed not right impudently to make such open profession before the *Ædiles*, That they would prostitute themselves. The emperor *Tiberius* tooke order, that from thenceforth the magistrats should proceed against them by way of iustice: & at the same time also to repress the presumption and encroaching of the *Ædiles* and others, by decree appointed vnto what summe, and what causes, their authoritie was to extend: which yet they had not by their auntient institution, and much lesse to call particular men before them, or to

The power of
the *Ædiles*.

commit them, although they had power to call a generall assembly of the common people. F

The power of
the Questors.

As for the Questors, I see not that they euer had, or yet tooke vpon them to haue had any iurisdiction or power to commit men: for so *Varro* saith, that they had not: albeit that the yeare after their office expired, they had sometime the gouernment of some prouince bestowed vpon them: as *Gracchus* the younger after his Questorship had the gouernment of Sardinia giuen vnto him. From which time they had as much and more power in the gouernment of the prouinces committed vnto them, than had all the magistrats in Rome: but that was not by way of commission, as had all the rest of the gouernours of prouinces.

The power of
the Censors.

As concerning Censors, *Fr. Ottoman*, and *Carolus Sigonius* (both of them most skillfull antiquaries) say, That they had well as they writ, *Potestatem, sed non Imperium*, (that is to say) power, but not commaund a thing altogether impossible: for that the word *Potestas* (or power) in termes of law, or in the person of a magistrat, importeth alwayes with it power to commaund. And namely *Vlpian*, where he saith, That the gouernour of a prouince had almost ample iurisdiction and power of life and death; calleth it properly by the name of *Potestas*. And wee oftentimes in antiquities read, the Censors Edicts, that is to say, their commaundements and lawes. *Varro* also and *Messala* call the Consuls, Censors, and Pretors, *Maiores Magistratus* (that is to say) greater Officers; and the rest, *Minores*, or lesser. And saith moreouer, That it was not in the power of the Pretors (who yet had both iurisdiction and commaund) to assemble the armie of the citie, which the Censors might, *Pratori exercitum urbanum conuocare non licere: Consuli, Censori, Interregi, Dictatori licere*. He said it not to be lawfull for the Pretor to call together the armie of the citie; but yet to be lawfull for the Consull, the Censor, the Interrex and the Dictator so to do. And at such time as *Hannibal* besieged Rome, there was an edict made, That all such as had bene Dictators, Consuls, or Censors, should haue a commaunding power, vntill such time as that the enemy had raised his siege. *Placuit* (saith *Liuius*) *omnes qui antea Dictatores, Consules, Censoresque fuissent, cum imperio esse donec hostis a muris discessisset*. Which they would not haue done if the Censors had not had a commaunding power, whilest they yet were in their offices; especially seeing that they which had bene Pretors, had no such power giuen them. Besides that, if the Tribunes (whom *Varro* putteth in the number of the lesser magistrats) had power to command, why should not then the Censors so haue, whome he calleth the Greater Magistrats? Yea that more is, *Plutarch* giueth more authoritie and power vnto the Censors, than to any other of the Roman magistrats: yet attribute I not so much vnto his writings, but that I see him being a Grecian, to be oftentimes deceiued in the antiquities of the Romans. Wherefore that is it which hath deceiued many, that the Censors, although they had power, yet had they no iurisdiction: albeit that *Onophrius* writ, That the Censors in some cases, and for some crimes had power to condemne men: but what those cases or crimes were, hee sheweth not. For either they must haue bene publike crimes, or priuat crimes: of priuat crimes the Pretor of the citie iudged, but of publike crimes the Pretor of the publike iudgements, and Triumviri of criminall and capital causes determined. True it is, that the Censors were controuersers of the peoples manners: but there is great difference betwixt the iudging of criminall causes, and the reprehending of mens manners and behaviours. And therefore *Cicero* said, The Censors iudgement, no farther to touch the partie by them condemned, than to make him blush. And that therefore, as all that the Censors iudgement concerned onely a mans name and credit, so it was called an ignominie or discredit, but not an infamie. For why, he saith not, That the Censors touched any mans honour, to the in- G
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Plutarche noted.

A tent to note it with infamie, but rather with a certaine ignominie, or kind of disgrace, which many haue rashly abused for infamie; howbeit that there is great difference betwixt infamie & ignominie. *Carolus Sigonius* hath therein erred defining ignominie to be an infamie: and in the same place saith, That there are certaine capital causes, which draw infamie with them, and yet without crime, contrarie to the principles of the law: Whereby we are taught, that he which is by publike iudgement for any crime condemned, is thereby become infamous: And that the souldiour for his fault worthily by his captaine casired, was thereby become ignominious, but not infamous, vntill that by the Pretors expresse edict he were so declared. The auncient doctors of the law haue called Ignominie, the infamie of a fact done: Whereof *Cassius* the lawyer saith, That he thinketh that a Senator put out of the Senat, can neither bee judge, nor beare witnesse, vntill he be againe restored: howbeit he doth say, That hee doth but thinke so. Which phrase of speech *Vlpian* also vseth, when as he saith, *Se putare ei quæ in adulterio deprehensa est & absoluta: notam obesse*, That he did thinke, that vnto her that was taken in adulterie and acquitted, yet the note thereof was a blemish. For certaine it is, that he which is by iudgement acquitted, is safe from the infamie of the law, but yet not from the ignominie of the fact. And *Calistratus* saith, That hee did also thinke the honour and reputation of a man to be impaired, *Quando quis ordine mouetur*, when a man is put out of his place. *Festus Pompeius* also setteth downe three sorts of militarie punishments, *viç. Deprehensa, castigatio, ignominia*, *Deprehensa*, saith he, is greater than *castigatio*, and lesser than *ignominia*; and aboue all these the law addeth infamie. For otherwise if infamie, and the Censors note of ignominie were all one, the threescore and foure Senators by *Lentulus* and *Gellius* the Censors at once displaced and thrust out of the Senat, as also the foure hundred knights, who by *Valerius* and *Sempronius* the Censors were casired, and their horses and publike wages taken from them, had bene also infamous. Yeathat more is, all the people of Rome had bene noted with infamie, by the censure of *Liuius Salinator*, who rased and noted all the tribes, and as *Valerius Maximus* saith, *Inter ararios retulit*, put them all from their freedom, and made them to pay all duties as straungers; For that they had by publike sentence first condemned him, and afterward made him Consull and Censor: only the tribe *Metia* he excepted, which had neither condemned nor acquitted him, neither thought him worthie of those so honourable offices in the Commonweale. Hee also afterward noted *Claudius Nero* his companion in the Censorship, who also requited him againe with the like. VVherefore *Cicero* speaking of the Censorship, thus saith, ** Illud commune proponam, nunquam animaduersionibus Censorijs hanc ciuitatem ita contentam, vt rebus indicatis fuisse*, I will (saith he) set before you that common matter, this citie neuer to haue bene so contented with the Censors animaduersions, as with iudgements. And bringeth for example *C. Gets* a Senator, who by the Censors thrust out of the Senat, was afterwards himselfe made Censor. And after that he addeth, *Quod si illud quoque iudicium putaretur, vt ceteri turpi iudicio damnati in perpetuum omni honore ac dignitate priuarentur, sic hominibus ignominia notatis, neque ad honorem, neque in curiam reditus esset: timoris enim causam non vitæ pœnam in illa potestate esse voluerunt. Quare qui vobis in mentem venit hæc appellare iudicia, quæ a populo Romano rescindi, ab iuratis iudicibus repudiari, a magistratibus negligi, ab ijs qui eandem potestatem adepti sunt solent commutari?* If that (saith he) should also be thought a iudgement, as others with infamous iudgement condemned, they should for euer be depriued of all honour and dignitie: so vnto men (by the Censors) noted with ignominie, should bee no meanes for them againe to returne vnto their honour, or into the court: For why, our auncestors would cause offeare, but not danger of life to be in the Censors power. Where-

Ignominie is a kind of disgrace, but not the same that infamie is.

That men may be noted with ignominie and so disgraced, and yet not thereby become infamous.

* pro Censoribus

fore how came it into your mind, to call these iudgements, which may by the people of Rome be reuoked, by the sworne judges be reiectcd, by the magistrats bee neglected; and of them which haue obtained the same power be vsually changed. Wherby it euidently appeareth the Censors to haue bene without all manner of iurisdiction. For the Pretors had the hearing and examination of the suits of the farmers of the publike reuenues of all such things as concerned tributes, rents, writings, reparations, and farming out of publike things, made or done by the Censors: for that the power of the Censors was quite different from the iurisdiction of the Pretors. And so with vs (here in Fraunce) power is giuen vnto the gouernours of prouinces, but yet without iurisdiction: except it be, that they by consent of both the parties, take vpon them to decide or determine any matter. And so we may in like sort say, That the Censors had power to commaund, but without any iurisdiction. R

The power of the
Triumviri Capitales
in Rome.

There were also other magistrats in Rome, which had power to command, and iurisdiction also in criminall causes, as those whome they called *Triumviri Capitales*, whose power and authoritie extended yet onely vnto straungers or slaues: except perhaps such were the vnworthinesse of the magistrats, and their corruption, or offence so great, as that the other magistrats did willingly winke at the proceeding of these Capital Triumviri, & at the publike punishment by them taken vpon such notorious offenders. These Triumviri beside this had also the putting in execution of all the capitall iudgements of the people, or of the other magistrats. G

No magistrat
without power

Now by this discourse of the Roman magistrats and their power, it appeareth, that in Rome there were some magistrats, who at the beginning of their first institution had no power or commaund, or els power yet without iurisdiction; and yet to haue at length vsurped both. Howbeit I deeme not them to be called Magistrats, which haue no power; well they may enioy some publike honour or charge, but no magistracie. For the true proprietic of the word Magistrat, importeth and draweth with it a power to commaund. And he that will haue regard vnto the phrase and manner of speech of the auntient Latines, and especially of the lawyers, shall find them to haue called the offices with honest charges in the Commonweale, by the word *Honores*, *Honor* (saith *Calistratus*) *est administratio Reipublice cum dignitate*, Honour is a gouernment of the Commonweale with dignitie or reputation: and those which beside their honor had power also to commaund, them they noted by the word *Imperia*. As in *Liue* we see the nobilitie to complaine in this sort, *Salios, ac Flamines sine Imperijs ac potestatibus relinqui*, The Salij and Flamines to be left without commaund, without power: vnderstanding by the word *Imperia*, the great estates of the citie, whether it were by commission, or by office, such as had Mase-bearers and power to commaund allowed them. And by the word *Potestates*, meaning the gouernours of prouinces, whome *Vlpian* the lawyer in proper tearmes calleth also *Potestates*. VVhich also *Alexander Seuerus* the emperour meant, when he with a loud voyce saith, *Non patiar mercatores potestatum*, I will not suffer the buiers of the governments of prouinces. H

Now as a man may haue a publike charge without honour, as Criers, Sargeants, Trumpetors, (which in auntient time were slaues, & of the magistrats familie without title of office) and especially the towne clarkes and notaries vnto the magistrats, or Commonweale, vntill the time of *Valentinian*, who forbade slaues any longer to haue that charge. So a man may say also, That there are publike charges with honour, without power to commaund; as ambassadours and priuie counsellors, secretaries of estate, and treasorours; the auntient *Ediles* and *Questors*, and our Receiuers. So also some other there be which haue honorable charge, hauing also the hearing of many causes, and yet without commaund: as the auntient Roman Bishops, and our great I

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A great Prelats. Others haue honorable charge, with power also to commaund, and yet without iurisdiction: as the Tribunes of the people, the Censors, and our Gouvernours of countries, together with the kings Attourney. Some others there bee also which haue ordinarie, and honorable publique charge, and power to commaund with iurisdiction: and those are they, whom properly we call Magistrats: such as were the two Consuls and Prætors; who were encreased euen to the number of sixteene. As for the Dictators, Gouvernours of prouinces, and those whom the Romans called *Interreges*: and *Præfectos urbi Latinarum feriarum causâ*: they had more power and authoritie, then all the other magistrats we haue spoken of: yet were they not magistrats, but commissioners onely, as we haue before showed: albeit that some called them by the common name of Magistrats; but yet not they which knew how properly to speake. And so oftentimes it happeneth that they which haue the greatest honors, are yet destitute of all power and commaund: as amongst the Venetians the Chauncelour is created out of the people, which is with them the greatest honour; and yet without any power. So the Procurators of S. Marke, are also (with them) highly honored, and in all Commonweales the counsellors of estate, Embassadors, Bishops, and prelates, who haue no commaund, and yet are more respected, than the other little Pronosts, and diuers other judges, which haue power to commaund, and iurisdiction to discide controuersies, with administration of justice both high and low.

The great diuersitie of magistrats in their honor, power, and authoritie.

C There are also publique charges, who haue neither honour nor commaund, but rather to the contrarie draw after them a certain kind of dishonour: as the Hangmans office; who after the charge committed vnto him for the execution to death, was by the Prætors edicts commaunded still to lodge out of the citie: a custome yet obserued in Tholouse, and in diuers other cities also. Other publique charges also there be, not much more honest, and yet neuertheless necessarie vnto the Commonweale, and profitable vnto them that haue execution of the same: to the end that the profit arising thereby, might in some sort couer the dishonour thereof. And vnder this diuision are generally comprehended all publique persons placed in title of office, or in commissions, or in simple dignitie without power to commaund.

Certaine publike charges dishonorable.

D And in like maner we might diuide all publique officers & magistrats, according to the diuersitie of the publike charges, which euerie one of them hath: some in matters of religion, other some in the affaires of state; these haue the administration of iustice: others haue the charge of the publike reuenues, some of the fortification and repairation of publike places, and others the prouision of victuals, and other things needfull: these haue the manning of the warres, for the defence of the subiects against their enemies: these the care of the publique health and welfare of the people, and these the ouersight and charge of the high waies, riuers, forrests, ports and passages: all which publicke charges may bee giuen either in title of office, or in commission, or simple dignitie without commaund: or els with a commanding power also, or only by way of the execution of the commaunds of others, such as are the magistrates ministers, towne clarkes, notaries, vsuers, surueyers, sergeants, criers. Which so great a multitude of honours, offices, and publicke charges, to comprehend under the simple name of magistrates, or as the Greekes call it *ἀρχοντων*, were but to confound the whole discourse of publicke honours and offices, of all magistrates and commissioners together.

E Wherefore in euerie Commonweale for the creating of magistrats and officers, and such as are to be imploied in common charge, three things are chiefly to bee respected: First them that haue the choyce and creation of them: then of what manner of persons

Three things especially to be respected in the creating of Magistrats & officers in euerie Commonweale.

persons choice is to be made: and thirdly in what maner and forme they are to be created or chosen. As for the first, it is a thing belonging onely vnto the soueraignie, as we haue in due place declared. And the second, although it most properly belong also vnto soueraignie, yet for the most part it ordinarily followeth the lawes to that end and purpose established, and especially in the Popular and Aristocratike estates: wherein (as generally in all sorts of Commonweales) offices, and publike charges are given vnto men, either for their vertue and wisdom, or else for their wealth, or for their nobilitie; or indifferently for all these things together; for why there is no Commonweale so barbarous, which hath not some regard of these things in bestowing of the offices and publike charges of the state: but which of these considerations were most to be respected, belongeth not to this place to discusse. And as concerning the third point, which is the manner and forme for the choice and creation of magistrats and officers, it is of three sorts: For either it is done by election, or lot; or by a mixture of both together. Election is made either by liuely voyce, or by holding vp of hands, (which the auntient Greekes called *χειροτονία*) a thing yet vsed amongst the Swissers: or else by tables or billets, by beanes or stones, and that in two sorts, *viz.* by open, or by secret suffrages. By lot choice is made of one, or mo of the citisens to be magistrats, or out of all sorts and degrees of the people, at a certaine age, by the laws appointed. Now as for choice to be made by election and lot mingled together, although it be a thing not much vsed in auntient time, yet is it now at this present a thing most common in Aristocraticall estates, and especially in Genes and Venice. As the Romans alwaies also did in making choice of the iudges of capitall causes, concerning life and death; who were by lot drawne onely out of the order of the Senators, before the law Sempronia, or out of the orders of the Senators and the knights by the law Sempronia also; or out of both those orders, and the Tribunes of the common treasure, by the law Aurelia, the people being still excluded. But in a Popular estate, either must all the citisens together iudge of euerie one in particular, or of the lesser part together, and that without lot or election. (For where the whole multitude of citisens haue authoritie and power, there is no place left for election or lot:) or else must some citisens by lot, or choice, or both drawne out, iudge of euerie man in particular: or some, of some chosen by lot or election onely, or by both together; or else some partly by lot, partly by election taken out of all the estates of the Commonweale, to iudge of some of the other citisens; or else some by lot drawne out of all, with some other taken out of one or many estates of the Commonweale: or part by lot and election drawn out of all, and other part out of a certaine order of the citisens. And thus much concerning all the meanes that can be imagined concerning the varietie of them which haue any publike charge: and for the estate, qualitie, and condition of euerie one of them, with the forme of their calling and imploiment.

Æschines the orator, diuiding the offices and publike charges of the Athenians, hath cut them much shorter, and more obscurely reckoned them vp, than was fit for so great a citie, considering that therein were moe magistrats and officers, than in any other Commonweale that then was, for the greatnesse thereof. Hee said, That there were therein three sorts of officers: one sort of them which were taken by lot or choice; another of them which had publike charge about the space of 30 dayes, such as were they which had the ouersight of publike reparations and buildings; and the third sort, of such as were by the auntient lawes appointed; as commissioners chosen for the warres, or for the administration of iustice, such as were the magistrats. But by this diuision cannot the diuersitie of magistrats and officers be iudged, no more than by that of *Demosthenes*, (altogether different from that of *Æschines* his aduersarie.) For hee saith them

A them onely to be magistrats, which were by lot drawne in the temple of *Theſeus*: or they to whome the people had giuen extraordinarie power to commaund, or made choice of for captaines. The diuision alſo of *Varro*, and *Meſſala*, is alſo too ſhort, who make but two ſorts of magistrats in Rome, *viſ.* the great and the little. The great magistrats they called the Conſuls, the Pretors, and Cenſors, as choſen by the great eſtates: and the other they called the little, as choſen by the common people; the ceremonie of their ſoothſayers diuination being more ſolemne in the choice of the greater, than in the choice of the leſſer. But better it were to ſearch and find out the eſſentiall diuiſions of magistrats, and ſuch as might ſerue in euerie Commonweale; as are thoſe by vs alreadie ſet downe, concerning the charge of magistrats. VVee may alſo otherwiſe diuide magistrats into three ſorts, in reſpect of their power. The firſt may bee called Soueraigne Magistrats, as owing obediēce vnto none, but vnto the ſoueraigne maieltie onely. The ſecond are leſſer Magistrats, who owe obediēce vnto the ſoueraigne Magistrats; and yet haue commaund ouer other magistrats alſo. The laſt ſort are they which owe obediēce vnto other ſuperiour Magistrats, and yet haue no commaund but ouer particular perſons onely. Let vs then in order ſpeake of theſe three ſorts of Magistrats, and firſt of the obediēce of Magistrats towards their Soueraigne Prince.

CHAP. IIII.

C ¶ *Of the obediēce that the Magiſtrat oweth vnto the Lawes and Soueraigne Prince.*



Seeing that the Magiſtrat next vnto the Soueraigne Prince, is the principall perſon in the Commonweale, & vpon whom they which haue the ſoueraigntie diſcharge themſelues, communicating vnto him the authoritie, force, and power to commaund: it is good reaſon before we paſſe further, briefly to touch what obediēce he oweth vnto his Soueraigne Prince; which is the chiefe part of his dutie.

D Now in this the Prince and Magiſtrat, and both of them do moſt differ from a priuat man: for that the Prince ſeeth no man in the ſtate or Commonweale, whome he may compare or preferre before himſelfe; but as one placed in a moſt high degree, and next vnto the immortal God, beholdeth all his ſubiects ſet a great way beneath him: whereas the priuat man cannot by any publike right commaund ouer any other ſubiect, although that he by priuat and domeſticall commaunds rule and gouerne his owne familie. As for the Magiſtrat, for that he is to regard many perſons, hee muſt oftentimes change his port, his geſture, his ſpeech and countenance, for the good performance of his dutie towards all: which no man can well diſcharge, except he firſt know his duty towards his Soueraigne prince, as alſo how to ſubmit himſelfe vnto the other Magiſtrats his ſuperiours, how to reſpect his equals, and how to commaund his inferiours, how to defend the weake, to withſtand the great, and to doe iuſtice to all. And that is it, for which the auntients commonly ſaid, *Magiſtracie or authoritie to declare what was in a man*, hauing as it were vpon the ſtage in the Theatre, and in the ſight of all men, to performe the parts of many perſons. And ſo alſo may we ſay, a man to ſhow what his office is: For if he be ſuch an one as he ought to be, hee graceth his place: whereas if he bee otherwiſe, hee debaſeth not only the authoritie of his place and office; but euē of the maieltie of the ſtate and Commonweale. So *Liuius* ſpeaking of *Quintus Flaminius*, a man vnworthy his high place, ſaith of him, *Non qui ſibi honorem adieciſſet, ſed indignitate ſua vim ac ius Magiſtratus quem gerebat dempſiſſet*, That hee had not (by his

How much a prince differeth from a magiſtrat, and both of them from a priuat man.

his office) encreased his honour ; but by the vnworthinesse of himselfe, impaired the force and power of the office which he bate.

Now the better to know what obedience the Magistrat oweth vnto his Soueraign, it is needfull first to vnderstand, what it is that a Soueraigne Prince may of right commaund euery Magistrat to doe . For why, the lawfull commands of Soueraigne Princes are right diuers, and vnlike themselues . Some of them seruing for perpetuall edicts or lawes concerning all persons, of what condition or qualitie soeuer they bee ; or but for certaine persons, and for a certaine time, by way of prouision : other some containe some priuilege or exemption contrarie to the edicts or lawes, for some one onely , or for some few of the subiects: or some graunt not contrarie vnto the law, or some reward for the good, or punishment for the euill , or some office or commission ; or else serue for the expounding of some edict or priuilege , or for the denouncing of warre, or the making of peace, or for raising of souldiours , or for the erecting of Faires or Markets, or for the leuying of taxes, subsidies, fifteenes, new impositions , or loanes : or for the sending of ambassadours to congratulat the good haps of other princes ; or to mone their misfortunes , or to entreat of marriages, and alliances, or other such like things ; or for the building or fortifying of places to be fortified , for the repairing of bridges , hie wayes, ports or passages , or for to iudge of certaine suits and proceedings in the law, or for the execution of some commaunds , or for the maintenance of letters of iustice, or for the restoring of such as be vnder age, or of full age, or of such as be condemned, or for some patticularitie, or for some remission , or pardon , which may bee of diuers sorts . Of which commaunds so before declared, some containe diuers kinds, as do priuileges and graunts , whether it be for some gift giuen, or for exemption and immunitie from all charges, or from some one: or letters of discharge, or of estate, or to haue the freedome of a citisen , or for to be made legitimat , or for nobilitie , or knighthood, or for the erecting of corporations or colleges, or other such like things . All which letters may be diuided into two sorts, that is to say , into letters of iurisdiction or commaund, or letters of iustice or state . Albeit that the word *Iubemus*, or we commaund, be as well in the letters of iustice, as in the letters of grace and fauour, as is to bee scene in the lawes and letters pattents of the Greeke emperours . Yet the letters of grace , or which proceed from the onely power and authoritie of the prince , are properly in Fraunce called Mandements, or Commands ; and the secretaries which dispatch them are also called the Secretaries of the Commaunds : whereas the letters of iustice are most commonly dispatched by the other secretaries ; beside the difference of the great and little seale, and for the most part the diuersitie of the waxe : or the single or double labell, or the seale hanging in silke of diuers colours, making the difference of the letters to be knowne . The auntient Latines called such instructions as were by princes ginen to their ambassadours, or gouernours of countries, or generals of their armies, *Mandata Principum*, or Princes Commands, which we do call by the name of instructions : For so the word *Mandata* is taken in the law, where *Iustinian* the emperour saith, That hee had made a booke of Mandats or Commaundements for the gouernours of prouinces.

But leauing the subtiltie of words, let vs go vnto the matter, and examine the force of the clauses commonly set downe in the letters patents and mandates of princes. And first these wordes, *Vniuersis presentibus & futuris* (To all men present and to come) are ioyned onely vnto such letters patents as are to endure for euer : (howbeit that no worldly thing can so for euer continue) but not vnto temporarie edicts made by way of prouision, nor to commissions, nor to any other letters of prouision . But this clause, *Quantum satis est &c.* (so much as shall suffice) is of much greater importance

The lawfull commaunds of Soueraigne princes right diuers.

The power and force of certaine clauses commonly set downe in the letters patents, and princes Mandats expounded.

A rance, & ordinarily ioyned vnto letters which they call letters of iurisdiction or iustice, whereby the prince leaueth vnto the discretion of him to whom such his letters are addressed, to allow of them, or to refuse them, as his conscience, and the equitie of the cause shall require: which is not in letters of commaundement which leaue nothing vnto him to whom they are directed, except happily sometimes the examination of the fact onely: as in these words, *Si paret &c.* (If it shall appeare vnto you &c.) In such sort that one may say of all sorts of charters or letters of iustice, albeit that they be granted by the prince, that they import not any commaund or constraint whatsoever vnto the magistrat to whom they are directed: But to the contrarie, that by our lawes and customes it is most religiously provided, that the magistrats or judges should vnto such charters or letters haue no further respect, than in that they were agreeable with equitie and truth. And although that the same forme of letters of iustice, be graunted in England, as also in Spayne, and other kingdomes; yet so it is neuerthelessse, that it is done rather for the particular profit of some one, than for the greatnes or increasing of the maiestie of the king, (who graunted them by way of benefit vnto the partie) or for any necessitie there is thereof: seeing that the whole is remitted vnto the power of the magistrat, after the graunting of such letters, which was not before the graunt thereof. Which was the cause that the people in the assemblie of the Estates in parliament at Orleans, presented a request vnto the king for the cutting off of this formalitie of letters: as seruing not but to the oppressing of the people, without any profit therout of to be drawne vnto the king or Commonweale. The auntient Greeks and Latins also neuer knew this forme of letters of iustice: but the magistrats vpon the request of the parties did as much as do our judges vpon the graunt of such letters of iustice. And the clause, *Quantum satis erit quod liqueat* (so much as may suffice for the manifesting of the matter) is the same which was contained in the Prætors edicts, in this forme, *Si qua mihi iusta causa videbitur*, (if any iust cause shall seeme vnto me.) True it is that the power to correct, supply, and expound the lawes, concerning the ciuill iurisdiction, together with the restitution & relieuing of them which had bene circumuented, or deceiued by the formalities of the lawes, (a power before giuen vnto the Prætors by the vertue of their office) resteth now (I know not how) amongst the marks of soueraigne maiestie; and for this cause the Prætors authoritie and lawes were called honorable; which the interpretors of the law call *Nobile officium*. Wherefore as offices are confounded, when as the prince conuerteth vnto himselfe such things as belong vnto the magistrat; euen so also are the rights of soueraigntie impaired, when as they are by the magistrats vsurped. Now as for the declaration, and correcting of the edicts and lawes, we haue before said that it appertaineth and belongeth vnto them which haue the soueraigntie: But as for restitutions against the extremitie of the law, and all that concerneth letters of iustice, it greatly appeareth not that the soueraigne princes haue much troubled themselves therewith, but haue left them to the magistrats to be in their name decided. I except only certain letters of iustice, which passe vnder the great Seale, and whereunto the foresaid clause, *If it shall be iust, If it shall be agreeable vnto equitie and truth*, is inserted: which clause so much displeased a certaine great personage, holding one of the highest places of honour in this Realme, (who vnderstood not the force thereof) as that he would haue rased out the same; saying the maiestie of the king to be thereby impaired: howbeit that he was therein to be excused, as being a straunger, and not well seene in the lawes and customes of a straunge countrey. But how could the maiestie of kings be in this respect empaired or diminished? seeing that the auntient kings of Ægypt caused their magistrats solemnely to sweare, neuer to obey their commaundements, in case they commaunded them any thing

The princes charters or letters of iustice, no commaundes vnto the magistrat to whom they are directed

A notable order

that

that was vniust: as we read in the sayings of the *Ægyptian* kings reported by *Plutarch*. F
 Seeing therefore that the allowance or reiecting of letters of iustice directed in the
 kings name vnto the magistrats, dependeth of the equitie and discretion of the magi-
 strats themselves, it needeth not vs to speake any more thereof. Wherefore let vs now
 proceed to those rescripts or letters of commaund, which for that they concerne the
 state of the Commonweale, and publike and not priuat causes, are called rescripts of
 State; or letters of commaund or state. Concerning which, a double question may be
 made: One whether such Rescripts or letters of the prince, containing onely the sim-
 ple examination of the fact, without gining any further hearing of the matter vnto the
 magistrat, according to the desert thereof; whether (I say) the magistrat fully informed
 of the truth of the fact according to the tenour of his letters, ought to proceed to the G
 further execution thereof being vniust, or to hearken vnto the vniust commaunds of
 his prince? The other, whether the magistrat hauing neither power to examine the
 equitie nor truth of a matter, may refuse the vniust commaunds of his prince: the
 doubt therein being the greater, if they shall be thereunto by the prince more straidly
 vrged, or expressely commaunded: For sometime princes by their particular and secret
 letters, vse to request the magistrats; so with couert requests accompanying their vn-
 iust commaunds: yea oftentimes in their letters patents their requests are ioyned with
 their commaunds, because they would not seeme to wrest all things from them against
 their wils; but to request many things of them: as when they say, *We pray and com-*
maund you, wherein the prince seemeth as in nothing more to derogate from his soue- H
 raigne maiestie: for if the thing be iust and honest which hee commaundeth, what
 needeth requests? if vniust or dishonest, why doth he commaund it? Now the magi-
 strat is neuer to be requested to doe his dutie, or intreated not to doe wrong, or that
 which is vniust or dishonest, as *Cato* the Censor saith. Besides that, to commaund is a
 thing incompatible with request. It is wisely said, *τῶν τυράννων δεήσεις παραγγέλλ-*
ματα εἶναι, Tyrants requestes to bee commaunds: wherefore let vs suppose no-
 thing to be more straitly commaunded, than that which the prince seemeth by fyled
 speech or intreatie to persuaide. Wherefore to resolue this point, if the princes letters
 giue vnto the magistrat neither the examination nor the hearing or disciding of the I
 fact, or of the right and truth of the cause, but that onely the execution of the princes
 commaund be vnto him committed: the magistrat in this case may not in any sort
 take vpon him the examination or hearing of the matter; except the letters of com-
 maund be notoriously false, faultie, or absurd, and contrarie to the lawes of God and
 nature (as we read of the commaunds of *Pharao* and *Agrippa*;) or else to robbe and
 spoile the poore people; as in our time *Albert* Marques of Brandeburg, who amongst
 other his notable cruelties, set vp sundrie gibbets in all such townes and cities as he had
 taken in, threatning his souldiours to hang them thereupon, if that contrarie to his
 commaund they should spare to robbe and spoile the poore inhabitants: albeit that he
 had neither true, nor yet any colourable cause, for his taking vp of armes against his K
 country. Now if a man subiect vnto a particular Lord or Iustice, be not in law or
 right bound to obey him passing the bounds of his tetritorie, or the power to him gi-
 uen, (albeit that the thing which hee commaundeth be both iust and honest) but may
 well refuse his commaund: how should the magistrat then be bound to obey or to put
 into execution the princes commaunds in things vniust and dishonest, the prince in
 this case transgressing and breaking the sacred bounds of the lawes both of God and
 nature? But some will say, no prince to be found so euill aduised, nor that it is to be sup-
 posed that he would commaund any thing contrarie vnto the lawes of God and na-
 ture: and true it is; for why he worthily loseth the title and honour of a Prince, which
 depar-

Whether the
 magistrat be
 bound to obey
 his princes vn-
 iust commaunds
 or not?

Princes requestes
 to haue the pow-
 er of the most
 strait commaund.

A departing from reason, and forgetting the dutie of a prince, breaketh the lawes of God and nature.

We haue before (as we suppose) sufficiently enough declared, what and how much a prince may doe by the right of his soueraignie, from whence many things may be deriued pertinent vnto this question here in hand: for why it is not well to be vnderstood what obedience is by the magistrat due vnto the soueraigne maiestie, except the rights of Soueraignie be before well vnderstood and fully knowne. But here the question is, what commaunds of the prince, and how farre the magistrat ought to execute the same? for sometime dishonest and vniust things are by princes commaunded, which the ciuill magistrats themselues do more willingly, and shamefully put in execution, than they were by the princes commaunded. As not long agoe in the time of the ciuill warres, (wherewith all Fraunce was on a light fyre) the president of the court of

What commaunds of the prince, and how far the magistrat ought to execute the same.

B Normandie (whose name deserueth to be buried in perpetuall obliuion) beeing commaunded extraordinarily to leuie thirtie thousand crownes of them which professed the reformed religion, extorted from them three hundred thousand; and for so doing (the calamitie of the time considered) receiued a great reward. Howbeit that *Tiberius* the emperour (a man of incredible crueltie) sharply reprobued the gouernour of Ægypt for exacting more of the subiects than he was commaunded: saying, *Tonderi oues meas non cutem detrahi volo*, I would haue my sheepe shorne, but not flaine. If therefore the commaundement of the prince be not contrarie vnto the lawes of God and nature, the

C magistrat is to put it in execution, although it seeme to differ from the lawes of other nations: which lawes it is not against nature for the princes to chaunge, for the profit or disprofit of their Commonweales. For albeit that the princes (as wee haue said) ought to keepe the oath by him made vnto his people, if hee haue so bound himselfe by oath; and although hee were not by oath so bound, yet neuerthelesse of dutie ought to keepe the lawes and customes of the estate and Commonweal whereof hee is soueraigne: yet for all that wee must not thereof conclude or gather, That if the prince doe in that case commaund any thing contrarie vnto his oath or the dutie of a Prince, that the Magistrat is therefore to refuse to obey his commaund.

D Forasmuch as it belongeth not vnto the Magistrat to examine or censure the doings of his prince, or to crosse his proceedings concerning mans lawes, from which the prince may as he seeth cause derogate. Yet if the Magistrat bee commaunded by the Prince to abrogate an auncient law, being more vpright and profitable to giue way vnto another lesse iust, and lesse profitable for the Commonweale; he may stay the execution of such a law or commaundement in suspense, vntill he haue shewed his reasons therefore vnto the prince, which he is in dutie bound to do, not once, but euen twice or thrice: and then if the prince notwithstanding his remonstrances, will not by him be aduised, but refuse his wholsome and profitable admonition, and will needes haue the law to passe further; then the Magistrat (as hauing already done his dutie) shall put it in execution: which he may also at the first commaund of his prince doe, if the delaying thereof be dangerous.

The magistrat is not to censure his princes commaunds, being not contrarie vnto the lawes of God & nature.

E And to that end and purpose tendeth that which is by *Innocentius* the fourth written, before he was Pope, That Magistrats ought to put in execution the princes commaunds, albeit that they be vniust: which is to be vnderstood of ciuill iustice and vilitie: but not if such commaunds bee contrarie to the lawes of nature. Which interpretation may serue also for the right vnderstanding of that which the lawyers say, *That the prince may derogate euen from the law of nature*. VVherin their meaning is, from the law of nations, and common constitutions of other people: least any deceived by the obscuritie of the words, or equiuocation of the law of nature, should thereby rashly presume to breake the sacred lawes of God and nature.

How it is to be vnderstood that a prince may derogate from the law of nature.

Now if any man shall object and say, That the emperor *Anastasius* expressly commaunded, That the judges and Magistrats should not so much as suffer men to produce the princes rescripts or letters graunted vnto particular persons, contrarie to the generall edicts or lawes: Mine answer is, that that is to be vnderstood, if in such the princes rescripts or letters no speciall clause be comprehended, derogating from the generall lawes: notwithstanding which derogation, yet the Magistrat ought neuertheless to aduertise the prince thereof, and to put him in mind of his dutie: who if he be not by the Magistrats reasons to be remoued from his former opinion, but command the same the second time, the Magistrat is then to obey his commaund, although the thing so commaunded be not agreeing with the common profit, and contrarie vnto the lawes. For why, the Magistrat hauing so done his dutie, is not to expect but the second commaund; as is by the law prouided. To the example whereof the edict of *Charles* the ninth was made, concerning the magistrats admonitions vnto their prince. So long before this *Theodosius* the Great, at the request of Saint *Ambrose* the good bishop of Milan, made a law, whereby he willed, That the execution of his letters patents and commaunds, should be holden in suspense thirtie dayes after the signification thereof, when he had commaunded any to be more rigorously punished than the vsual manner and custome was. The occasion of the making of which law was, the execution of seuen thousand *Thessalians*, put to death by the commaundement of this *Theodosius*, for that they had murthered and slaine certaine of his Receiuers and Magistrats. For which cause Saint *Ambrose* excommunicated the emperor, neither would suffer him to be reconciled, vntill he had made the aforesaid law. And hereof (as I suppose) proceed those rescripts, which are yet vsed by the bishops of Rome: the first called *Monitorie*, the second *Iussorie*, and the third *Executorie*; or as we say in English, Edicts of admonition, of Commaund, and of Execution.

How the Magistrat commaunded by his prince to put in execution old penall lawes, now of themselves or through the negligence of the magistrats forgotten, is to proceed in the execution thereof.

The same opinion we are to haue, if the prince by his letters patents command the Magistrat to proceed to the execution of the penaltie vpon them that haue offended against such his edicts and lawes, as by the antiquitie of themselves, or by the negligence of the Magistrats seeme to haue bene quite forgotten and abrogated. For why, the long sufferance of the prince, and conuience of the magistrats, in the sight and knowledge of whome the lawes are so broken, remitteth the penaltie due by the law: which could not otherwise haue bene infringed, by the abuse of them which transgressed the same, had it by the prince or magistrat bene still looked vnto. And therefore the magistrat ought not rashly to proceed to the execution of the penaltie of such forgotten or neglected lawes, before he haue caused the same to be againe republished, being by his default before neglected. Yea the prince ought rather to proceed against his magistrats, who through their remisse negligence haue suffered his edicts and lawes to be contemned. For otherwise it should be a thing verie vniust and fauouring of tyrannie, to make edicts and lawes, and after long neglecting of them, vpon a sodaine to proceed against them, who by the example of others, had transgressed against them, seeing others before them to haue escaped vnpunished. Which was one of the tyrannicall flights of the most cruell emperor *Nero*, as of other auncient tyrants also. Whereas the good emperor *Traian* to the contrarie commaunded *Plinie* gouernour of the lesser Asia, of new to publish such edicts and lawes as were any wise before buried in obliuion, by the disobedience or errour of his subiects, or the sufferance of the magistrats: for that a common errour is reputed for a law, if the errour bee not against the law of nature, against which no errour can probably be pretended.

But some man may aske, Whether the magistrat owe obedience vnto such his princes commaunds, as shall vnto him seeme contrarie vnto the law of nature, albeit that

A that indeed they be not contrarie therunto? For the equitie and reason which we call naturall, is not alwaies so cleere and manifest, but that it findeth impugnors. Yea oftentimes the greatest lawyers and philosophers are therein intangled, and of quite contrarie opinions, and the lawes of people are therein sometime so repugnant, as that some of them appoint reward, and some others punishment for the selfe same fact, whereof bookes, lawes, and histories are full, all which to prosecute were a matter infinit. Wherunto I aunswere, that if that which the auntients say may take place, a man neuer ought to doe that whereof he doubteth, whether it be iust or not; and much lesse ought hee so to doe, if he be thereof certainly perswaded that the thing which the prince commaundeth, is of it selfe by nature vniust. But if question be of ciuill iustice onely, the

B magistrat ought in such case to verifie and put in execution his princes commaunds, although he thinke them to be in ciuill equitie or law vniust. And therefore the magistrats in euerie Commonweale were compelled to sweare to obserue the lawes and ordinances; to the end they should not call into dispute or question, that which they ought to hold, as before resolved vpon. And this was the manner and custome of the Romans when the old magistrats receiued the oath of the new, before they entred into their charge: which was commonly done vpon the calends of Ianuarie, in the capitoll, after solemne sacrifices there made: for otherwise the magistrat lost his place of estate, if hee tooke not his oath within siue daies after. Yea sometimes the Tribunes which held the estate of the people, constrained them in particular which had withstood the publishing of a law, to sweare to obserue the same, after that it was once published, and that vpon the paine of banishment. So *L. Metellus Numidicus* was by a decree of the people banished, for refusing to sweare vnto the lawes published at the instance of the famous Tribune *Saturninus*. So also after that the lawes of *Lewes* the twelfth were published in the high court of the parliament of Paris: for that many disliked of the same, the kings attourney generall there made a request, That they might be duely obserued, and prohibition giuen for any man to call them in doubt, and that vpon paine of high treason; as is to be seene in the records of the court. For why, it is lawfull for euerie man before the publishing of the law, to dispute and reason of the equitie thereof: which to doe after the publication thereof, is not lawfull. And so, before that, when

D as king *Lewes* the eleuenth had commaunded certaine vniust decrees of his to be published in the court of the parliament at Paris: the court refused to yeeld therunto, for that they seemed vnto euerie man vniust: but the king neuerthelesse still vrging his former requests, ioyned therunto grievous threats also; as that they should loose their heads that would not yeeld therunto. Which thing *Lanacrie*, president of the parliament vnderstanding, accompanied with the rest of the iudges of that honourable court in their red robes, came vnto the king, not to excuse the fault by him and the rest committed, in refusing the kings vniust decrees, but to shew the reasons of their such refusall, and to request, That he with the rest might rather bee put to death, than enforced to give their consent to the publishing of the propounded lawes. The king beholding the grauitie, the port, and dignitie of these persons, and almost abashed with the so constant resolution of such his great magistrats, and withall doubting the power and authoritie of the parliament, caused those his decrees so much disliked, to bee abrogated, and in their presence torne in peeces, requesting them to continue so still to maintaine iustice; solemnly protesting neuer more to send vnto them any edict which should not be both iust and reasonable. It is a wonderfull thing to say of what power and moment this thing was to keepe the king within the bounds of reason, who otherwise had alwayes vsed his absolute power and commaund. As before hee came vnto the kingdome, being as yet Dauphin, he caused the presidents of the court of Paris to bee

E

The law of nature not alwaies cleere and manifest.

The magistrat bound in ciuill causes to put his princes commaunds in execution, although they seeme vnto himselfe vniust or contrarie vnto lawe.

Lawes once established ought not by priuate persons to be againe called into dispute or question.

A notable example.

How the wordes
de expresse or ex-
pressissimo manda-
to are in princes
grants, edicts or
decrees to be vn-
derstood.

Whether a ma-
gistrate be to be
suffered to giue
vp his place, ra-
ther than to al-
low an edict or
command of
his prince which
he for certaine
thinketh to be
vniust, and con-
trarie vnto reason

called before him, to rase out the clause, *De expresse mandato* (by expresse commaundement) which the court had caused to be put vnto the confirmation of the priuileges graunted vnto the countie of Maine, protesting, That he would neuer goe out of the citie, vnill it were done, or yet take vppon him the charge by the king committed vnto him. Whereupon the court indeed commaunded those words to bee cancelled: but yet that the cancelling might appeare, commaunded the acts to be kept, which are yet preserued vndefaced. Now these words, *De expresse mandato*, and *De expressissimo mandato*, whereunto these words are also sometimes annexed, *Multis vicibus iterato* (or oftentimes repeated) which are many times to be found in the records of soueraign courts ioyned vnto the publication of the princes edicts and decrees, haue this illation or meaning, that such edicts and priuileges (graunted by the princes, expresse commaundement) should not be so precisely kept, but that shortly after they might by the sufferance of the magistrats be againe forgotten and neglected, as not much regarded. And by this secret of the courts, hath the state of this kingdome bene preserued in the greatnesse thereof: which otherwise would haue bene ruinated by the flatterers of princes, who by such extorted priuileges scrape vnto themselues whatsoeuer they desire: and the good kings not stil able to satisfie the hungry courtiers, sometimes wel eased, which haue vsed these restrictions, being so of their subiects well beloued, the confirmation of such edicts and priuileges not carrying with them any effect vnto the subiect, or disobedience vnto the king to giue good words, or charge of conscience vnto the magistrat in not performing it.

But yet farther question might be made, VWhether a magistrat may bee suffered to giue vp his place, rather than he will allow an edict, a commission, or commandement from his prince, which he for certaine thinketh to be vniust and contrarie vnto naturall reason, when as the equitie of it is called in question, & especially if the other magistrats and multitude of the people shall hold it to be iust, contrarie to the others. For the force of iustice, and power of vpright reason, is not perceined but of the fewer and wiser sort: and a wise man being as it were the rule of reason, is of all others the greatest enemy vnto the multitude. VWhich if it be so, why should a wise man bee enforced to giue his consent vnto the multitude of mad magistrats. In which case I say, that the magistrat is not to be suffered to giue vp his place, if it please not his soueraign prince he should so do, but ought rather to bee constrained to obey his princes commaunds, if the equitie thereof being called in doubt, be approued by the greater part of the magistrats, which haue charge to confirme such edicts: For otherwise if they should be permitted to giue vp their places, rather than to passe an edict approued by others, it would open a perilous gap to all the subiects, by their example to refuse and reiect the edicts and commaunds of their prince: and so euerie one in his charge might leaue the Commonweale vnto danger, and expose it vnto the tempest, as a ship without a Rudder, and that vnder the shadow of an opinion of iustice: which may haply be but a deuise of a subtil braine, to no other purpose than to contradict the more common opinion. And therefore among the most lawdable laws made by *Lewes* the xij, there is one which importeth, That if the judges be of three or moe opinions, those which were the fewer in number should be constrained to conforme and ioyne themselues vnto one of the greater parties, for the concluding of the decrees. VWhereupon the court of Paris of long time doubted, whether this law should be published or not: for that it seemed a very hard and a most strange thing vnto many, to force the conscience of the judges contrarie to their owne opinions, and so enforce them to iudge contrarie to that they ought, and that especially in such things as were committed vnto the wisdom and deuotion of the judges, as are almost all both publike and priuat iudgements.

A iudgements. Yet neuerthelesse after the court had considered of inconueniences which it saw ordinarily to arise vpon the varietie of opinions, and that the course of iustice, and the concluding of many good decrees, was thereby also often letted, the court confirmed the aforesaid law, which by processe of time hath bin found to be most iust & profitable. Hereunto also agreeth the maner and custome of the antient Romans: for their iudges oftentimes to change their opinions, and to ioyne themselues vnto the greater part, albeit that they were not thereunto constrained. As is to bee seene in *Plinie*, of a iudgement wherein one part of the iudges had condēned the guiltie person vnto death, another part had cleerely and fully acquitted him, and the third part had for a time banished him: in this diuersitie of opinions, as well they which had before acquitted him, as they which had condemned him to death, consented both to them which would haue him banished. But our law is in that point better, which compelleth the fewer to ioyne themselues vnto the more. For in all corporations & colledges reason would, that that which pleaseth the greater part should take place and preuaile, as strengthened with the most voices. Howbeit that in all such consultations and actions the rule of the auntient wise neuer faileth; which willeth, That of many honest and profitable things propounded vnto vs, we should chuse those which be most honest, and most profitable: and so of many inconueniences and daungers, to make choice of the least: for otherwise mens actions should neuer sort to good end. And a man may also say, That the equitie of a law is not properly naturall, if it bee obscure or doubtfull; for that true naturall iustice is more cleere and resplendent than the brightnesse of the sunne, as not wrapped vp in obscuritie, nor depending of the erroneous opinions of men, but of the most cleere and immutable wisdom of the euerlasting.

And yet neuerthelesse since the law of *Lewes* the xij. I find not that any magistrat hath giuen vp his place, as fearing to be inforced to maintaine or yeeld to any opinion contrarie vnto his conscience: and especially since the places of iustice were giuen vnto men for vertue, and not for reward and fauour. Neither hath the law of *Lewes* the xij. at any time constrayned the iudges to iudge contrarie vnto their conscience, but hath rather silently giuen them leaue to giue vp their places; howbeit that it were more equitie so to constrain them, than to leaue it vnto their will and pleasure. For which
D cause the kings Attourneyes general haue oftentimes constrained the Iudges to iudge according vnto Lawes and customes of the land, albeit that all the Iudges were of contrarie opinion. As I remember that whilst I was at Tholouse, one *Bartholomew* President of one of the Chambers of Inquirie, seeing all the counsellours of his court of one and the same opinion in a suit, and directly against the law: after he had assembled all the rest of the courts vpon the matter, he constrayned them to change their opinions, and to iudge according to the law; And that iustly also: for who enforced thee to seeke for thine office? or to accept of it being offered thee? and hauing taken it vpon thee, (being happily got either by suspending of voices, or by sute, or bribery,) and being sworne, wilt thou now forswear the lawes, which thou mightest before haue red,
E or at least wise oughtest to haue red? wilt thou by thy false opinion of the law and iustice, wrong the place thou bearest? delude the lawes? or forsake thy prince and Commonweale.

Yet sometime it happeneth that such lawes as of themselues seeme vnto euery man most iust, may vpon some suddein occurrent appeare and proue to be most vniust. In which case, whereas the wrong is in the fact presented plaine and euident, wise magistrates vse to certifie the king thereof, (as I remember it to haue most oftentimes bene done in the parliament at Patis,) who imparting the matter vnto his Counsell, doth as he seeth cause derogate from the positiue law; or adde some thing vnto the same:

What the magistrate is to do in case the lawe otherwise iust, now vpon some sudden occurrents seeme to be hard and vniust,

(which our men call the exposition or declaration of the law) a thing properly belonging vnto the soueraigntie of a Prince, as we haue before declared. So that in this case, it is not lawfull for the magistrat to iudge against the law, although he may suspend his sentence vntill that the Princes pleasure be further knowne. But otherwise the law being cleare and without difficultie, the magistrat is to iudge according thereunto without disputing of the equitie thereof: for otherwise if the judge shall wittingly and wilfully iudge contrarie vnto the law, he is by the lawes themselues noted of infamie: but if he shall so iudge of ignorance, or supposing himselfe to iudge according vnto the law; he is not therefore to be accounted infamous: howbeit that such his iudgement is of it selfe void, as if it had not bene giuen at all, in such sort as that a man by the auncient Roman law need not at all to appeale therefrom. F

Now there is great diffERENCE whether question be of the lawes alreadie established, or of those which yet are by the magistrat to be published. For why, such as be alreadie established, euery man is bound to keepe, and especially the magistrats, who if they wittingly swarue therefrom, (beside the penaltie appointed by the law) are subiect also G

vnto the note of infamie, as perjurours and forsworne men. But as for such Edicts and lawes as are not yet published, but are but as yet presented vnto the magistrats to be confirmed and published, of them it behoueth the greater magistrats (to whom the publication of lawes especially appertaineth) well to consider, and to shew the reasons if they shall dislike of them vnto the prince, albeit that it concerne but the particular interest of some one priuat person; but much more, in case it concerne the great harme or good of the Commonweale: which good if it be verie great, may in some sort couer the iniustice of the law; (as the auncient states-men say.) Yet must we not proceed so farre in respecting of the publike profit be it neuer so great, as therefore to forget reason, and to be caried headlong with wrong and iniustice: as were in auncient time the Lacedemonians, who measured all iustice by the common profit, whereunto they directed all their lawes, all their iudgements, and counsels; so that if that were once in question, neither oath, nor reason, nor iustice, nor yet the law of nature was by them H

once respected. But much better it were for the Commonweale, and more becomming the dignitie of the magistrat, of himselfe to giue vp his office (as did the Chauncelour of *Philip* the second, duke of Burgundie) than to giue way vnto a law that is contrarie vnto the lawes of God and nature, or that in euery mans iudgement seemeth to be dishonest or vniust; howbeit the Duke seeing the irremoueable constancie of his Chauncelour, readie to giue vp his office, thought it better to reuoke such his commaunds, than to want so stout & wise a man. Which so constant resolutions of the magistrats, hath oftentimes preferred Princes from infamie, lawes from decay, and Commonweales from destruction. But when such constancie cannot heale the diseases of the I

Commonweale, or faults of soueraigne princes; and that the prince commaundeth the magistrats, to haue his actions excused vnto his subiects; it is much better for the magistrat to obey his commaund, and in so doing to couer and burie the memorie of a wicked fact alreadie done, than in refusing so to do, to irritate the prince to the doing of worse; and so (as they say) to cast the helue after the hatchet. As did *Papinian* the great Gouvernour of the empire, (and by *Seuerus* the Emperour in his will appointed Tutor vnto the yong emperours *Antoninus Caracalla*, and *Geta* his sonnes) who by *Caracalla* commaunded to excuse vnto the Senat the murder by him committed vpon the person of his brother *Geta*, would therein do nothing, but cut him off with this sharpe and short answer, saying, *That murders were more hardlie excused, than committed*: which was of him more stoutly then wisely said. For *Caracalla* with this answer enraged, and yet not satisfied with his brothers blood, in his rage commaunded K

Papinian

Great care to be had by the greater magistrats in the publication of lawes.

Better it is for the magistrat of himselfe to giue way vnto the law contrarie vnto the lawes of God and nature.

That a princes faults which cannot be amended ought by all means to be of the magistrats couered.

A *Papinian* also to be slaine : and after the death of him so great a man, (as who alone might haue gouerned the furious yong prince, and repressed his rage) neuer ceased without any contradiction or controulment to kill, murder, and tyrannize, vntill such time as he had brought himselfe together with the Empire vnto destruction. Which I would not haue to bee so vnderstood, as spoken of vs in any respect to impaire the worthie praises of so notable a man, (for that can in no wise be done) but that magistrates may hereby vnderstand, how farre they are to beate with the faults of princes, which once done, cannot by them be amended. For had *Papinian* couered that he could not now amend, he had saued his owne life, and counterpeased the tyrannies and cruelties of the Emperour, who alwaies before had him in greatest honour and regard. Which fault in *Papinian* I haue thought good to note, for that many haue right highly commended him for the same; without respecting, that such his resistance auailed nothing, but brought an irreparable losse vnto the affaires of the empire, being so deprived of so great a personage, as might therein doe more than any other; for that he was a prince of the blood, and the greatest magistrat in the state. But had the matter then stood whole and entier, and that the Emperour had commaunded him to put his brother *Geta* to death, he had then done both stoutly and wisely in refusing so to doe, and had had iust cause rather to die than to consent to that vnnaturall fact, for one brother to murder another. But *Seneca* and his companion *Burra* (the gouernors of *Nero*) shall be for euer blamed, as hauing no excuse to pretend for their most wicked counsell, perswading *Nero* to kill his mother, who by chaunce had escaped drowning: which most cruell counsell, commaund, or fact, shall together with the authors thereof be for euer crowned with eternall infamie and shame.

But what if the prince shall command any thing to be done, and that the same thing being begun to be put in execution, he changing his mind shall reuoke his former commaund; shall the magistrat in this case stay from proceeding any further, or go on with that he hath begun? Whereunto a man at the first sight would say, That he ought to stay and to proceed no farther: following therein the maximes of the law. Howbeit to answer rightly thereunto, the matter is by distinction to be opened; that is to wit, that if the thing so begun may be left off without the publike harme, it is then so to bee left off according to the last commaund: but if it be so begun, as that it cannot bee left off, without the manifest hurt of the state and Commonweale; the magistrat in this case is to proceed on with that he hath so begun, notwithstanding the latter countermaund, and that especially in matters of warre; as wee haue before said. And to this purpose *Marcellus* the Consull saith, *Multa magnis ducibus sicut non aggredienda, ita semel aggressis non dimittenda*. As many things are not of great capitaines to be at all taken in hand: so being once by them vndertaken, are not by them to bee againe giuen ouer. And this in time of warre. But if at home the magistrat following the commandement to him giuen, hath begun to execute the condemned, or them that the prince hath commaunded to be put to death, he ought forthwith to surcease from any further execution, if the commaundement be reuoked: and not to do, as did the Consull *Fulvius*, who hauing taken the citie of *Capua*, as he was punishing the authors of the rebellion, and had now caused the greater part of the Senators of that citie to bee beheaded, receiuing letters from the Senat of Rome, willing him to stay and cease the execution, put those letters in his bosome, without reading of them, & doubting of the contents thereof, proceeded to the execution of the rest, vntill he had put to death fourescore of them. True it is, that the Senat had no power in any thing to commaund the Consuls (as we haue before said) yet for all that, the gouernours of prouinces, and the generals of the Roman armies, yea and the Consuls also, vsed most commonly to be obedi-

A princes commaund being begun to bee put in execution, whether it be by the princes contrary commaund to be giuen ouer.

Great things by great men vnder taken, ought also to be by them performed, or else neuer taken in hand.

ent vnto the Senate, and to yeelde vnto the decrees thereof, as vnto lawes. And truly the principall cause why they of Gaunt put to death sixe and thirty of their lawyers, after the death of *Charles Duke of Burgundy*, was for nothing else, but for that they had condemned a ciuizen to death, after the death of the Duke; before they were againe confirmed in their authoritie and office, although it was not a thing altogether necessarie; as with like examples wee haue declared. Yea it is almost a perpetuall thing, for them which are in authoritie and haue power to commaund, to bee able of their owne right to execute that was commanded them, yea after that the time of their authoritie is expired, if he that gaue them the authoritie and charge knowing and wittingly shall dissemble the fact, or not forbid it when he might.

Whether the magistrate be to examine the truth of that he is by the prince commaunded, before he proceede to the examination thereof?

Now all that we haue hitherto said, is to be vnderstood onely of such letters or rescripts of commaund, as yet carrie with them no power for the magistrat to examine the fact or matter they concerne. But then what shall wee say, if such rescripts or commaunds report such things as certainly knowne and true, which yet are neither publickly, nor vnto the magistrat so knowne to be. Heere we must againe consider, whether the examination of the matter, be by speciall commaund expressly taken from the magistrat, or else left vnto him: if it be left vnto him, there is then no doubt, but that the magistrat may and ought to enquire of the truth of such things, as are reported in the princes rescripts or letters: but if al examination of the matter be taken from the magistrat, then some doubt, whether he may inquire of the truth thereof or not; and especially if it be expressed in the rescript or mandate, that the prince being well enformed of the truth, commaundeth the magistrat to proceede to the execution of his letters or commaunds: howbeit the best opinion is, that the magistrat both in the one case and the other, ought to examine the truth of the matter. For when to inquire of the truth of the cause, is neither forbidden nor commaunded, although it bee expressed in the princes rescripts or letters, to proceede to execution, yet ought the magistrat neuerthelessse to examine the truth of the matter. And to the intent, that the magistrats should not pretend to excuse themselves by ignorance, the emperour *Constantine*, prouided by an expresse law, that the magistrats should inquire, whether these things were true or not, which were set downe in his rescripts or letters of commaund, whether it were so in them expressed, or left out. And as for the other point, if in the rescripts or letters, it be expressly set downe to proceede to execution, for that the prince is well enformed of the truth of the matter; yet neuerthelessse ought the magistrat to examine the truth thereof: notwithstanding the clause which I haue said, which ought not to hinder the examination of the matter, nor to be preiudiciall to any other mans right; and so much lesse vnto the publike, and least of all vnto the truth: and so generally, all such narrative clauses as are but reported in rescripts, mandates, commissions, lawes, priuiledges, testaments, and sentences, cannot be any thing preiudiciall vnto the truth. And albeit, that during the tyranny of the *Sforces*, they made a law, that all faith and credence should be giuen vnto the princes commaunds and letters; yet was the same law againe disannulled, after that they were by the French, driuen out of the estate of Milan. And if the faith and credite must needs bee giuen vnto the narrative clauses of princes rescripts and letters of commaund, that is to bee vnderstood, onely of such clauses, as whereby the obscure places of their edicts, and lawes, commissions, mandates, or iudgements are expounded, which none can better declare, then they themselves that made them; howbeit, that such their declarations ought rather to be called decrees, then expositions or declarations. But if the prince shall in the bestowing of offices, places of charge, or other his grants in his rescripts or letters, testifie for the fidelity, integrity, wisdom, or religion of any man, it is so farre from, that the magistrat should rest contented

A tented with that iustification, as that hee ought therefore with greater diligence to inquire of him, for that the prince supposed him to be indeede such, and would not haue such benefits or preferments bestowed vpon an ignorant or vnwise man. But contrary wise, if the prince shall simply giue vnto any man an office or place of commaund, he is no farther by the magistrat to bee inquired of, for that the prince in his wisdom hath thought him worthy such honour and place; if the prince first giue him not leaue so to doe, or that the custome of the country so require: as in the latter times they did in Rome; but afterwards, almost euery where: but especially in the appointing of iudges. So also in antient time, in the raigne of the Gothes, triall was made of the Senators, before they were to bee admitted into the Senate. For *Theodoric*, king of the

B Gothes, writing vnto the Roman Senate, for the receiuing of a new Senator, saith, *Admittendos in Senatum examinare cogit sollicitus honor Senatus*: the care (we haue) of the honour of the Senate, causeth vs to examine such as are to be admitted into the Senate.

Whether the magistrat ought to enquire of the sufficiency of him of whose wilddom and integritie the prince shall himselfe by his rescripts, or letters testifie; in the bestowing of any office or other charge vpon him

But if any man vnder a false pretended colour shall encroach vpon the prince the profits and commodities vnto him graunted, being in the princes rescript exprest, yet is he thereof by the magistrat to be imbarred; and the rather, if the common treasure be with immoderat gifts exhausted: vnto which disease euerie where spreading, remedie might be giuen, if the law of *Valois* concerning gifts might take place. For *Philip Valois* the French king, commaunded those gifts and graunts to bee reuoked from them,

C who in the letters of such gifts or graunts, had not exprest what they or any other for them, had for the same cause in the letters of their graunts, before obtained; which yet also is in vse in Millan. For seeing that it much concerneth the Commonweale what money and profit, what rewards, and priuileges, euery man obtaineth, the magistrats must thereunto haue a most vigilant eye, and especially in popular estates, wherein as all publike things lie open vnto the spoyle of all men; so for the same cause occasion is ministred vnto the seditious, to the trouble and oftentimes to the ruine of the Commonweale. And for this cause it was most straitly provided by a law in the twelue tables, that no priuilege or dispensation might in any wise be graunted, and that vpon paine of death, but onely in the great assembly of the whole estate of the people:

D the words of the law being these, *Priuilegia nisi Comitibus Centuriatis ne irroganto, qui secus faxit Capital esto*, Let no priuilege be graunted, but in the great and general assembly of the people: and he that shall otherwise doe, let him die the death. And after that *Constantine* the emperor writing vnto the people, saith, *Nec damno a fisco, nec legibus contraria impetrari oportet*, It is not fit, things hurtfull vnto the common treasure, or contrarie vnto the laws, to be obtained: howbeit that all priuileges are directly contrarie vnto the law; for otherwise they should not be priuileges. And if it bee so, that they must needs passe after the second commaund (as we haue before said) yet besee meth it the magistrat to cut them short, and to interpret them in strictest maner that he can, and to the least hurt of the Commonweale, as things odious, and contrarie vnto the law; and not by fauourable interpretations to encrease their strength, or to draw them into consequence, as heretofore haue the iudges and the clergie, which by their faire gloses, haue drawne the profit and priuileges graunted onely vnto souldiours, vnto themselues also; vsing these faire gloasing words, of worldly Souldiours and heauenly Souldiours: so laying all the burthen vpon the poore countrey man, vnto whom the same priuileges ought of better right to be communicated than to them.

E

It much concerneth the Commonweale what gifts or priuileges be graunted vnto particular men.

Priuileges as things odious and contrarie vnto the lawes, how they are to be interpreted.

But for that our purpose is not here to enter into the disputing of priuileges, which were a thing infinit, sufficeth it in passing by, in generall to aduertise the magistrat to haue speciall regard vnto the priuileges by princes graunted, and most straitly to examine

Priuileges to be most straitly examined.

mine them, what good report fouer the prince therein make of him that hath obtained such priuilege : For that euery man well knoweth, that the prince oftentimes knoweth not them to whome such priuileges are graunted ; vnworthy men still not so much obtaining them, as indeed wresting them from princes, euen as it were against their wils : no craft or subtiltie in this case left vnought out, to defraud the lawes, and abuse the prince and magistrats, and that with so many shifts and quirkes of words, and so much deceit, as that they seeme hardly to be by the magistrat to be met withal, but by plaine force . Such is that clause, *De motu proprio* (of our owne meere motion) which inuented at Rome, hath from thence crept abroad into all Europe . For why, there is almost neither king nor kefar, which when question is for the breaking of a law, or repealing an edict, or for giuing way vnto dispensations and priuileges, ioyneth not thereunto this clause, *De motu nostro proprio* (Of our owne proper motion) howbeit that the same princes haue bene importuned, and as it were enforced to graunt that euen vnto vnknowne and most vnworthy men, for whome they haue bene so importunately requested . There is at Rome a field called Flory, or Floutishing, not so much for the plentie of flowers, as of witnesses that are therein ; out of which euery man may rake testimonies, for the bestowing of benefices vpon them which dwell euen in the remotest places of Asia and Affrica, and that with these words, *De motu proprio* . By which onely clause, all the fraud and deceit of them that sued for preferment, be they neuer so bad or vniust, are easily excused : and by vertue of which words the examination of all flye incommings or craftie intrusions, cease, if wee will receiue the opinion of some most pernicious and daungerous vnto the state : but such sleights and deceits wee haue long since bid farewell out of our Commonweale . And for that princes and magistrats circumuented with the wiles of deceitfull men, could hardly, or not at all escape the same, it was wisely decreed, That the princes rescripts, nor letters pattents, should be of none effect, except they were presented vnto the magistrat the same yete that they were obtained ; neither should be of any force, before they were by the magistrat approued . And yet it seemeth vnto me, that the law of Milan is better, that is to wit, that the princes mandats and letters pattents directed vnto the Senat, were not to be receiued after the yeare expired : neither those that were directed vnto the magistrat after a moneth were past : and that not onely the yeare and day, but euen the verie howre also, should be therein set downe, as the manner is almost throughout all Germanie ; following therein the opinion of many great lawyers, to stop the suits and controuersies which oft times arise for gifts, offices, and benefices graunted vnto diuers in one day, as it was decreed by the parliament at Blois, at the request there made by *Boden* deputie of *Vermandois* .

Whether the magistrat expressly forbidden to examine the truth of things contained in the princes grants or letters, may yet passe beyond such his forbiddens prohibition.

But what if the prince by his rescript or letters pattents, shall expressly forbid the magistrat to examine the truth of such things as are contained in them, albeit that they be false or doubtfull ; ought the magistrat in this case to examine the matter ? And it seemeth that he ought so to doe : For we haue before said, that hee may, and ought to examine the cause, and enquire of the truth of things expressed in the princes rescripts and letters, albeit that the prince therein declare himselfe to know the truth thereof . Yet for all that, I say, that it belongeth not vnto the magistrat in this case to passe beyond the prohibition of his soueraigne prince : For there is great difference when the prince declareth, That he knoweth the truth ; and when he forbiddeth to enquire thereof : For in him it is to be presumed, that he hath bene circumuented, and so mistaking things false for true, and things vnknowne for knowne, to haue commanded them so to be put into his rescript, which he would not haue done, had hee bene truly thereof enformed : As if hee should giue a judges place vnto a souldior, or a captaines place vnto

A vnto a lawyer, neither the one nor the other ought by the magistrat to be admitted or receiued, although the souldiour were commonly called a lawier, and the lawier a souldiour, such pretended qualitie hauing happely giuen occasion vnto the prince to be so in his graunt deceiued. But when the prince shall expresse forbid the magistrat to examine the fact or matter, it is to be presumed, that he well knoweth that which he doth, and that he would not that the magistrat should farther enquire thereof. Yet may the magistrat well vse the remedie by vs before spoken of, and shew the prince the truth, and the importance of his commaund, with the inconueniences and harmes ensuing thereof, and so in what he may to draw him from his former purpose: and hauing so discharged his duetie, yet neuerthelesse then to yeeld his obedience, if he shall be againe so commaunded: for otherwise the maiestie of a prince or Commonweal should be but a mockerie, as still subiect vnto the controlement of the magistrates. Besides that, it is much more also to be feared, least that the other magistrates, by the example of one or two, and after them other priuat men also, should presume to contemne the princes commaund, to the great endangering and ruine of the Commonweale.

Now if a man should say that a Prince ought not to commaund any thing that is dishonest or vniust, he therein sayth well: neither ought the prince (if it were possible) to commaund any thing not becomming his honour, or that were so much as subiect vnto reprehension or slander, or knowing the magistrates to be of contrarie opinion vnto his, to constraine them thereunto: for that the ignorant and common people is no way more moued vnto disloyaltie, and contempt of their princes edicts and lawes, then to see the magistrates hardly delt withall, and the lawes by them contrarie to their good liking published and forced. But now here the question is, what the magistrat ought to doe, in case the prince forgetting his duetie, commaund any thing contrarie to the common profit and ciuill iustice; yet provided still that it be not against the law of God and nature: whether the magistrat ought to obey such his princes commaund, or to giue vp his place? And if so it be, that the worldly magistrat ought to be obeyed, albeit that he commaund such things as are vniust: *Ne Prætoris maiestas contempta videatur*, Lest the maiestie of the Prætor should seeme to be contemned (as saith the law) how much more then ought men to obey their soueraigne Prince, of the maiestie of whom all magistrates depend? Now it is in many lawes repeated that we must obey the magistrat, whether the thing that he commaundeth be iust or not, following the counsell of all the wise which haue hereof written. And to this purpose saith *Cicero* (albeit that he was a mortall enemy vnto the Tribunes of the people) that men were to obey euen the vniust oppositions of the Tribunes, in these words: *Parere iubet lex intercessori, quo nihil præstantius: impediri enim bonam rem melius est, quam concedi male*, The law (saith he) commaundeth vs to obey the magistrat that opposeth himselfe, then which nothing is better: for better it is a good thing to be crossed then euill graunted. And before he had said: *Nihil exitiosius ciuitatibus, nihil tam contrarium iuri ac legibus, nihil minus ciuile & humanum, quam composita & constituta re publica quicquam agi per vim*, Nothing is more dangerous vnto cities, nothing more contrarie vnto right and law, nothing more vnciuill or inhumaine, then in a well ordered and settled Commonweale to haue any thing done by force. We oft times see the subiects to take vp armes against their prince, the lawes violated, and iustice go to wracke, and all for the false opinion that the people haue of the equitie and integritie of the judges, refusing to verifie and put in execution the Edicts and commaunds of their prince. O but say they it is an vniust Edict or law, neither can we, nor ought we, to obey the same: an honest speech, if indeed thou canst not; but where learnedst thou that thou oughtest not? from whence haddest thou that doctrine? wilt thou (being a magi-

Whether the magistrat commaunded by his prince any thing contrarie to the common profit, or course of ciuill iustice, ought to obey such his princes commaund, or to giue vp his place.

Dangerous vnto Commonweales for the the magistrates to refuse to put in execution their princes Edicts or commaunds.

magistrat) with stripes, imprisonment, fines, yea, and with death it selfe enforce priuat men to obey, yea euen thine vniust commaunds, and yet thy selfe not obey the commaundement of thy Prince? But thou wilt denie thine owne commaunds to be vniust: so doth the prince also denie that which he commaundeth to be so: shalt thou now be iudge herein, or he? or if thou wilt needs be iudge, why shouldst thou not thinke to suffer the same in thine owne decrees concerning priuat men. Besides that, as no man enforced thee to take vpon thee thine office, so no man forbiddeth thee to giue vp the same, if the law thou likest not seeme to thee so vniust: it is therefore the desire of bearing rule, that maketh thee that thou wouldest beare rule ouer priuat men, and yet not obey thy prince thy selfe. Wherefore let vs vpon this conclude, it to be much better in all obedience to stoupe vnto the soueraigne maiestie, than in refusing of his soueraigne commaunds to giue example and occasion of rebellion vnto the subiects; yet still keeping the respects that we haue before set downe, and especially when it concerneth the honour of God, which is and ought to bee vnto all subiects greater, and more precious than the wealth, the life, the honour of all the princes of the world. And to know how a man should beare himselfe herein, amongst many examples we will vse but one or two. *Saul* commaunded all the priests of God without iust cause in his presence to be slaine, yet was there no man which refused not his vngodly commaund, except *Doeg*, who himselfe alone performed that so cruell an execution. Another notable example there is of one *Petronius* gouernour of Syria, who receiued commaundement to place the image of *Caligula* the emperour, in the fairest place of the Temple of Hierusalem, as it had beene in all other Temples of the empire: howbeit that the Iewes had neuer suffered those images to stand in their Temples, but had still cast them downe, and broken and beaten them all to peeces, euen to the verie shieldes of the emperours, which they had there placed. Whereof *Petronius* aduertised the Emperour, and that it could not be done without great trouble and slaughter of the people: wherewith *Caligula* more incensed, sent more expresse and strait commaund vnto *Petronius*, to assemble all the old bands of his garison souldiours in those quarters, and so with a puissant armie to put his commission in execution: Of whose comming the Iewes hearing, left their Townes, and the tillage of their grounds, and so in great companies all vnarmed, went to meet him, if happily they so might by their humble prayers intreat him; telling him withall, that they ought not so much to feare any mortall man, as to commit so abhominable a sinne against the maiestie of the immortall God: and therefore most humbly requested him to take in good part such their constant resolution, which was rather to die, than to see so great an abomination, as the most sacred Temple of God to be so polluted with the images of men. Neuerthelessse *Petronius* told them that it concerned his life, to performe his commission: and so to terrifie them the more, marched with his armie vnto Tiberias, (as supposing himselfe to doe nothing contrarie to his owne religion, or to the lawes of God or man) but there the people came running vnto him from all parts, disarmed, and resolued all to die, rather than to see the image set vp in the Temple, humbling themselues, and bowing their heads before the armie wherewith *Petronius* had beset them round: who seeing the great constancie of the people, and their exceeding zeale towards the honour of their God, as to chuse rather to die, than so much as to see the image of a man in the Temple of God; wonderfully moued therewith, and with their pitifull complaint and teares, (and being himselfe also a man of a courteous and milde nature, and farre from that crueltie, which the Iewes feared not whatsoever it had beene) he commaunded them all to returne home; promising againe to write in their behalfe vnto the Emperour, and rather himselfe to die than to execute his commission, accounting

A notable example of a wise gouernour or magistrat.

- A** ring his life a worthe ransome for the saving of the guiltles blood of so many innocent people. Neuerthelesse *Caligula* therewith the more enraged, sent vnto him a new command, with grievous threats to put him vnto the most grievous torture that he could possibly deuise, if he forthwith put not his commission in execution, according to his command. But the ship, together with them that brought the commission, was by force of tempest caried an other way, and newes brought into Iurie of the death of the tyrant, before that the cruell commission could come thither. And so *Petronius* hauing discharged his conscience towards God, his duetie towards his prince, and well showed his great loue toward the subiects, and discharged all the parts of a most wise Gouvernour: was himselfe by the diuine providence wonderfully preserved from the cruelties vnto him by the tyrant threatned. But yet this is especially to be considered, that we pretend not the vaine show of religion, or rather of superstition, against our princes commands, and so vpon a conscience euill grounded open a way vnto rebellion: for when the magistrat maketh conscience, and a matter of religion, about the executing of his princes commands, he seemeth himselfe (and giueth occasion vnto others also) to suspect euill both of the religion and conscience of his prince. Wherefore he ought to be well assured of the true knowledge of the eternall God, and of the true worship and seruice vnto him due: which consisteth not in vaine and counterfeite shewes of religion or conscience. Diuers other examples I could to the same purpose produce, were I not afraid lest those whom we call Pagans should therein asham vs, with whom the feruent zeale vnto the honour of God is so abated, and by proceesse of time cooled, as that it is to be feared lest at length it be altogether frosen. And thus much for the obedience of the Magistrat vnto his Soueraigne Prince. Let vs now also speake of his power and authoritie ouer particular and priuat men, and what a manner of man we wish him for to be towards them.

That the Magistrat ought not vpon a vaine show of religion, or a conscience euill grounded, to refuse to execute his princes commands.

CHAP. V.

¶ Of the power and authoritie of a Magistrat ouer particular and priuat men, and of his office and duetie.

- D**  E haue before said, That a Magistrat is an officer which hath publike power to command, or to forbid: Now he hath power so to command or forbid, which hath publike power to enforce or constraîne them which will not obey that which he enioyneth them, or which do contrarie to his prohibition, and may also ease the prohibitions by himselfe made. For albeit that the law saith, That the force of the lawes consisteth in commanding, and forbidding; in suffering, and punishing: yet is this power more proper vnto the Magistrat, then vnto the law, which is of it selfe dombe: whereas the Magistrat is a living and breathing law, which putteth all this in execution, seeing that the law in it selfe carrieth or containeth nothing but commands or prohibitions, which are but mockeries and to no purpose, if the Magistrat and the punishment were not attendant at the foot of the law, readie for him which transgresseth the same. Howbeit that to speake properly, the law containeth nothing but the verie prohibition, and the threats for not obeying the same; considering that he which commandeth (inclusiuely) forbiddeth to transgresse his command: and as for sufferance, that is no law: for sufferance taketh away prohibition, and carrieth with it neither penaltie nor threat, without which the law cannot be, considering that the law is no other thing, then the commandement of the soueraigne, as we haue before declared: and whatsoeuer threat or penaltie is propounded by the law, yet the punishment neuerthelesse neuer ensueth the breach thereof, vn-

The Magistrat a living law.

The force of the law to consist in the Magistrate, or him that hath the power to commaund and constraîne.

What power the Magistrat ought to haue?

The first constraîning power that the magistrat hath.

The diuers power of Magistrats.

till it be pronounced by the mouth of the Magistrat. Whereby it euidently appeareth **F**
all the force of the law to consist in them which haue the commaund, whether it bee prince, people, or magistrat, vnto whome so commaunding, except the subiects yeeld their obedience, they haue power to enforce or punish them, which *Demosthenes* calleth the verie sinewes of the Commonweale.

We haue said, that the Magistrat ought to haue publike power, to put a difference betwixt this power and the domesticall power. We said also, that the Magistrat should haue power to constraîne such as would not obey: for the difference from them which haue the hearing of matters, who may also iudge and pronounce sentence, & call men before them, but yet haue no power to compell or constraîne men, or to put their sentences or commaundements in execution; such as were in auncient time the bishops, **G**
and now our bishops also: such were also the auncient commissioners, delegats vnto the Magistrats, hauing power to heare the causes vnto them committed; as also to condemne the parties, but yet had no power to constraîne them, but sent their sentences vnto the Magistrats, to be ratified or reuerfed, and by them to be put in execution as they saw good: So might these delegates call men before them, but yet so, as that no man, except he listed, needed to obey them, except the Magistrats themselues had by vertue of their authoritie so commaunded. And therefore he was not in danger of the law, who had by force rescued a priuat man, as he was to be brought before these priuat judges or delegates appointed by the Magistrats, which he should haue incurred, had the delegates had of themselues any power to commaund. Howbeit that now by our **H**
lawes and customes the delegates haue with vs power to command, and to cause their sentences to be put in execution by fargeants and other publike persons, by vertue of their decrees which they giue out, signed and sealed with their owne hands and seales: whereas the bishops with vs haue no such power to constraîne men, but send their sentences to be executed by the Magistrats. As the Cadies, and Paracadies do in all the East, who haue the hearing of all matters, but yet haue no power to constraîne men, but send their iudgements vnto the Sabbassaes, which haue the commaund and power in their hand.

We haue before said, that the first constraint of all them which had power to commaund, is the ceising or attaching both of mens goods and persons; which the auncients called *prehensio*, or as we say an apprehending or laying on of hands: for it were to no purpose, for the Magistrat to call a man before him, to iudge him, or to fine him; and when all is done not to haue power to seise vpon their goods nor person of him that shall disobey him. Now we haue before said, that some there be, which haue such power to apprehend and attache men; which yet haue no authoritie or power to call a man before them, neither to examine a matter, neither to rescue a man, neither to enlarge them whome they haue committed; as we haue showed of the Tribunes of the people, of the eleuen Magistrats in Athens, of the Capitall Triumviri in Rome, of the Auogadours in Venice, of the kings Attourneies, and the deputies of them which haue **I**
power of the common treasure in other realmes and Commonweales: and of the Commissioners of the Chasteler of Paris, who may all imprison men, and seise vpon them, and yet for all that cannot releue or enlarge them, which belongeth onely vnto the publike Magistrats, which haue power to condemne and acquite, and to iudge, some of them of mens goods onely, other some of mens goods and honour also, and other some of mens goods and honour, with power to inflict corporall punishment also, but not death: and some hauing power to put to death also, and that some of them such power, as from whome men may appeale; and some others, such as from whom men may not appeale. But the last and highest degree, is of such as haue the absolute pow- **K**
F

A er of life and death; that is to say, power to condemne to death, and againe to giue life vnto him which hath deserved to die; which is the highest marke of soueraignie, about all lawes, and about the power and authoritie of all Magistrats, as proper onely vnto soueraignie, as we haue before declared. Whereby it appeareth, that there are two kinds of commaunding by publike power: the one in soueraignie, which is absolute, infinit, and about the lawes, the Magistrats, and all other priuat persons: the other is a lawfull commaund, as subiect vnto the lawes and soueraignie, and is proper vnto the Magistrats, and them which haue extraordinarie power to commaund, vntill it be againe reuoked, or the time of their commission expired. The soueraigne prince next vnder God knoweth none greater than himselfe; the Magistrat vnder God holdeth his power of his soueraigne prince, and remaineth alwaies subiect vnto him and his lawes: the particular man next after God (whome wee must alwayes put in the first place) acknowledgeth the soueraigne prince, his lawes, and his Magistrats, euerie one of them in his place. Vnder the name of Magistrats I vnderstand also them which haue iurisdiction annexed vnto their fees, considering that they hold them also as well of the soueraigne prince, as do the Magistrats, in such sort, as that it seemeth that there are none in the Commonweale but the soueraigne princes, which may properly vse these words, *Impero & iubeo*, I charge and commaund: which in auncient time signified, I will and commaund, seeing that the will of euerie Magistrat, and of all others also, which haue power to command, is bound and dependeth wholly of the soueraigne, which may alter, chaunge, and reuoke it at his pleasure. For which cause there is neither any one Magistrat, nor yet all together, which can put in their commissions, *Such is our pleasure*: or this clause, *Vpon paine of death*, for that none but a soueraigne prince or state, can vse the same in their edicts or lawes.

The highest marke of soueraign maiestie is to haue power of life and death.

Two sorts of commaunding by publike power: the one in soueraignie, and the other by lawe

And hereof riseth a notable question, which is not yet well decided, *viz.* Whether the power of the sword (which the law calleth *Merum imperium*, or meere power) be proper vnto the soueraigne prince, and inseparable from the soueraignie; and that the Magistrats haue not this *merum imperium* (or meere power) but onely the execution thereof: or that such power is also common vnto the Magistrat, to whome the prince hath communicated the same. Which question was disputed betwixt *Lothaire* and *Azon*, two of the greatest lawyers of their time: and the emperor *Henrie* the seuenth chosen thereof judge, at such time as he was at Bononia, vpon the wager of an horse, which he should pay, which was by the iudgement of the emperor vpon the afore-said question condemned. Wherein *Lothaire* indeed carried away the honour, howbeit that the greater part, & almost all the rest of the famous lawyers then held the opinion of *Azon*; saying, That *Lothaire equum tulerat, sed Azo equum* (*Lothaire* had carried away the horse, but *Azon* the right) neuerthelesse many since haue holden the opinion of *Lothaire*: so that the question remaineth yet (as we said) vndecided, which for all that deserueth to be well vnderstood, for the consequence it draweth after it, for the better vnderstanding of the force and nature of commaunding, and the rights of soueraign maiestie. But the difficultie thereof is growne, for that *Lothaire* and *Azon* neither of them well knew the estate of the Romans, whose lawes and ordinances they expounded; neither tooke regard vnto the chaunge in that estate made by the coming in of the emperours. Certaine it is, that at the first, after that the kings were driven out of the citie, none of the Roman Magistrats had power of the sword ouer the citisens: yea that which much lesse is, they had not so much power, as to condemne any citisen to be whipped or beaten, after the law *Portia*, published at the request of *Cato* Tribune of the people, 454 yeares after the foundation of the citie. By which law the people tooke this power, not from the Magistrats onely, but dispoyled euery it selfe thereof also so

Whether the power of the sword be proper onely vnto the soueraigne prince or common also vnto the magistrat to whom the prince hath communicated the same

No magistrate in Rome after the kings once driven out, had power of the sword.

much as it could, giuing the condemned leaue for what fault or offence fouer it were, **F**
to void the countrey, and to go into exile: and that which more is, there was not any
one magistrat, which had power to iudge a citisen, if once question were but of his ho-
nour, or good name, or of any publike crime by him committed; for then the hearing
thereof was referued vnto the comminaltie, or common people: but if it concerned
the losse of life, or of the freedome of a citisen, none might then iudge thereof, but the
whole estate of the people in their greatest assemblies, as was ordained by those lawes,
which they called Sacred. Which although that they were not alwaies so precisely
kept, but that they were sometime broken; yet *Cicero* for transgressing the same esca-
ped not, but being Consull, and hauing caused certaine of the conspirators with *Cate- G*
~~line~~ *line* to be executed, was therefore himselfe afterwards banished, and his goods all con-
fiscated. Long after the lawes *Valeria*, *Sempronia*, and *Portia*, which had now remo-
ued the Consuls hatchets and rods from the heads and backs of the citisens of Rome:
Cornelius Sylla the dictator published his lawes concerning publike iudgements, wher-
by were appointed a certaine number of Prætors, as ordinarie officers, which were to
iudge of all such causes as whereof the comminaltie before iudged, or at leastwise ap-
pointed commissioners for to iudge of such crimes, as of murders, of robbing of the
common treasure, of treason, or of extortion; but yet so, as that these Pretors had their
lesson by writing, beyond which they might not passe a iot. For they by lot drew a
certaine number of particular iudges out of them, which by the lawes might in such
causes be iudiciarie iudges, who before all the people hauing heard the accusations and **H**
defenses both of the one part and the other, had brought vnto euerie one of them the
iudges, three litle tables of diuers colours, vpon one of which was written an *A.* vppon
another a *C.* and vpon the third *N. L.* the *A.* signifying acquitted, *C.* condemned, and
N. L. as much as to say, *Non Liqueat*, or it is not manifest, or the matter is farther to bee
inquired of (which they called *Ampliare*, and *Amplius querere*.) With these tables
was also brought vnto the iudges a vessell whereinto euerie one of them did cast one
of the three aforesaid tables, without any word speaking: Which done they counted
the tables so cast in, and if there were moe marked with *C.* cast in, then the Pretor in his
purple robe mounting into an high seat, in open place, and in the sight of all the people
pronounced these words, *Reus parum causisse videtur*, which is to say, It seemeth that the
partie accused, hath not kept himselfe from doing amisse; or else *Non iure fecisse vide-*
tur, He seemeth not to haue done right; or *Videtur prouinciam spoliasse*, He seemeth to
haue spoyled the prouince. This was the Roman grauitie in iudgement mixt with **I**
modestie, least they should seeme therein to lie, or rashly to affirme any thing which
was not altogether most manifestly tried. Of which sort are these words also, *Si quid*
mei iudicij est, If my iudgement be any thing. So presently after the Pretor had pro-
nounced the aforesaid words, the penaltie of the law was put in execution, the partie
condemned voided the countrey and went into exile, and the receiuers seised vpon his
goods. If such penaltie were for the offence of the law appointed, vnto which law ex- **K**
cept the partie so condemned yeelded himselfe obedient, he was forthwith by the Tri-
umuirie of causes capitall, apprehended and cast in prison. VVherefore, might some
man say, that these capitall Triumviri had power ouer the citisens: But wee said before
them to haue had power onely ouer straungers, and that truely: and so men condem-
ned to exile, are but to be accounted straungers, for that they haue lost the libertie of
the citie. To like purpose is that which *Martian* the lawyer writeth, concerning the
decree of the Senat, at the motion of *Turpilian*, *Si iudex pronunciauit hæc verba, calum-*
niatus es, condemnauit eum. If the iudge (saith he) hath pronounced these words, Thou
hast slandered, he hath therein condemned him: and albeit that he say no more con-
cerning

The great mo-
destie of the Ro-
manes in their
iudgments.

A cerning the punishment of the offender, yet shall the penaltie of the law neuerthelesse be executed vpon him. Not to speake in the meane time of the inscriptions of their libels, with the examination of witnesses and writings. This was the manner of the publike iudgements vsed by the auntient Romans: VVherby it is easily to be vnderstood, that the Pretors or judges were but onely the simple executioners of the law, without power to adde or diminish one iot thereof, hauing not onely no power of the sword, but not so much as to whip, or yet lightly to punish a citisen.

Now if question were for the fine of any publike crime, which was not prouided for by the law, the lesser assembly of the common people or comminatie, was called together therefore: But if question were of the life, good name, or the whole estate of any citisen, the people then in their greatest and most solemn assemblies gaue iudgement thereof: and that in both cases extraordinarily, as commonly they vse to doe which haue the soueraigntie in all Commonweals: neither were voyces in these cases giuen by tables or markes: for that the law it selfe, and not the people, was made iudge of the punishment to be inflicted. The sentence of which law was almost this, or such like, *Si M. Posthumius ante Calendas Maias non prodisset, neque excusatus esset, videri eum in exilio esse: ipsi aqua & igni placere interdici*, If *M. Posthumius* made not his appearance before the first of May, neither made his excuse, it should seeme good that hee should be banished, and decreed, That he should be forbid the vse of fire and water: all which things are more plentifully and at large set downe by *Linie Asconius*, and *Cicero*. But if the state of the Commonweale being chaunged, and the power of iudgement and of giuing of voyces, being taken from the people, yet for a certaine time continued this manner and forme of iudiciall proceedings, euen after that the forme of the Commonweale was chaunged from a Populare estate into a Monarchie, as a man may see in the time of *Papinian* the great lawyer, who gaue occasion vnto *Lothaire & Azon* to make question of the matter, in these words by him set downe as a maxime, *Whatsoever it is that is giuen vnto Magistrats by decree of the Senat, by speciall law, or by the constitution of princes, that is not in their power to commit vnto other persons: and therefore* (saith he) *the Magistrats do not well in committing that their charge vnto others, if it bee not in their absence: which is not so* (saith he) *in them that haue power, without the limitation of speciall laws, but onely in vertue of their office, which they may commit vnto others, albeit that they themselues be present*. And thus much for that which *Papinian* doth say, vsing the words, *Exercitium publici iudicij*: as if he should say, That they which haue the soueraigne maiestie haue receiued vnto themselues the power of the sword, and by speciall law giuen, but the execution thereof vnto the Magistrats. And this is the opinion of *Lothaire*. By which words yet *Azon* vnderstandeth the right and power of the sword it selfe to haue bene translated and giuen vnto the Magistrats. Now there is no doubt, but that the opinion of *Lothaire* was true, if hee had spoken but of the auntient Pretors of Rome, and so kept himselfe within the tearmes and compasse of *Papinian* his rule: but in that he was deceiued, that he supposed that maxime or rule of *Papinians*, to extend to all Magistrats which haue bene since or yet are in all Commonweals, who yet for the most part haue the hearing of murders, robberies, riots, and other such like offences, and so the power of the sword giuen vnto them euen by vertue of their offices. For the emperours and law giuers hauing in the processe of time seene the inconuenience and iniustice that arise by condemning all murtherers, vnto one and the selfe same punishment, or els quite to absolue them: and so the like in other publike crimes also, thought it much better to ordaine and appoint certaine Magistrats, who according to their conscience and deuotion, might encrease or diminish the punishment, as they saw equitie and reason to require. And first of all *Augustus* vnto the three litle

tables noted with A. C. and N. L. added a fourth, whereby it was lawfull for the judges to pardon them, who by other mens fraud or deceit had offended the law, as wee read in *Suetonius*. And by little and little the auncient order and manner in the iudicial or penall laws set downe, was chaunged; the penaltie by euery one of them appointed yet neuerthelesse still remaining, not by any to be encreased or diminished, but by them which we haue before said, what diuersitie of causes focuer happened. And oftentimes the emperours committed it vnto the Senat, or some other the great and most worthy magistrats extraordinarily to iudge of great personages, or of some notable crimes, and to punish them as they saw cause, or thought best, without binding them vnto the ordinarie penall lawes. But in the time of *Papinian*, *Scuerus* the emperour gaue power vnto the great Prouost of Rome, extraordinarily to iudge of all offences and crimes, whatsoeuer they were, committed within the citie or within fortie leagues round about it. Yea the other Pretors of the citie, who but by the ordinarie course of law were to iudge of ciuill causes and priuat crimes, dealt also with certaine publike iudgements referred vnto them, not by vertue of their office, but by the law it selfe: whereof *Papinian* sheweth example. And sometime the Pretor preuenting the great Prouost, so by way of preuention extraordinarily iudged of extraordinarie crimes, together with the great Prouost. As for the presidents and gouernours of prouinces, in that they had power and authoritie of all the Magistrats of the citie, and extraordinarily iudged of all offences, and according to their owne discretion appointed both penall and capitall punishment vnto all men, except the citisens of Rome; no man can reasonably doubt, but that they had the power of the sword, and were therefore called *Potestates*: for that before the creating of the great Prouost, there was none but the gouernours of the prouinces which had the power of the sword; whom they yet call euen to this present in Italie, by the name of *Potestats*. Now it is plaine by the maximes of the law, that the Magistrats which had power extraordinarily to iudge, might condemne the guiltie parties to such punishments as they would, yet so, as that they exceeded not measure: For so *Vlpian* the lawyer writeth, him to exceed measure, who for a small or light offence inflicteth capitall punishment; or for a cruell murder imposeth a fine. VWhereof wee may then conclude, that the great Prouost, and the gouernours of prouinces, and generally all such Magistrats as haue extraordinarie authority to iudge of capitall crimes (whether it bee by commission, or by vertue of their office) haue the power of the sword, that is to say, to iudge, to condemne, or acquit; and not the bare execution of the law onely, whereunto they are not in this respect bound as are the other Magistrats, vnto whome the law hath prescribed what and how they are to iudge, leauing vnto them the naked execution of the law, without the power of the sword.

And thus much briefly, concerning the question betwixt *Lothaire* and *Azon*: for the fuller and more plentiful declaration whereof, it is needfull for vs yet to search farther: where it is first to be enquired, Whether the Magistrats office be proper vnto the Commonweale, or vnto the prince, or vnto the magistrat himself that beareth office, or else be common vnto the Magistrat himselfe together with the Commonweale? Then whether the power graunted vnto the Magistrats be proper vnto the Magistrats, in that they are magistrats, or els be proper vnto the prince, the execution thereof only belonging vnto the magistrats; or else be common vnto them both together? Now concerning the first question, there is no doubt, but that all estates, magistrats, & offices, do in proprietie belong vnto the Commonweale (excepting in a lordly Monarchie) the bestowing of them, resting with them which haue the soueraigntie (as we haue before said) and cannot by inheritance be appropriat vnto any particular persons, but by the

At magistrats
hauing a horitie
to iudge of capi-
tal crimes, to
haue the power
of the sword.

To whom the
proprietie of e-
states, magistracie,
and offices doe
properly belong.

graunt

A graunt of the foueraigne; and long and secret consent of the estates, confirmed by a long lawfull and iust possession. As in this kingdome, the Dukes, Marquesses, Counties, and such others as haue from the prince the gouernment of the castles in sundrie prouinces, and so the commaund of them, had the same in auntient time but by commission onely, to be againe reuoked at the pleasure of the foueraigne prince, but were afterward by little and little graunted vnto particular men for tearme of their lines, and after that vnto their heires males, and in proesse of time vnto, the females also: inso-much as that in fine, through the negligence of princes, foueraigne commaunds, iurisdictiones, and powers, may lawfully be set to sale, as well as may the lands themselves, by way of lawfull buing and selling, almost in all the empires and kingdoms of the VVest, and so are accounted of, as other hereditarie goods, which may lawfully bee bought and sold. VVherefore this iurisdiction or authoritie which for that it seemeth to bee annexed vnto the territorie or land (and yet in truth is not) and is thereof called Prædicatorie, is proper vnto them which are possessed of such lands, whether it bee by inheritance, or by other lawfull right, and that as vnto right and lawfull owners thereof, in giuing fealtie and homage vnto the foueraigne prince, or state, from whome all great commaunds and iurisdictiones flow, and in sauing also the foueraigne rights of the kingdome, and the right of the last appeale.

Dukedomes, earledomes, marquissats, and such like in auntient time but simple commissions, now for most part are become hereditarie.

Other publique officers there bee also which haue neither iurisdiction nor commaund, but onely a certeine publique and seruile charge: as the foure offices of the
C Waxe-chafers in this realme, by right of inheritance belonging vnto certein men, by the graunt of king *Lewes*. Diuers also haue attempted by proesse of time to prescribe the offices of the Constables both of Normandie and Champagne; as also the offices of the great Chamberlaines, by right of inheritance to belong vnto them: howbeit that in that their sute they haue beene often times by diuers decrees reiected, and amongst others by one solempne one, in the records of the court made in the yeare 1273. True it is that the word (Constable) was in auntient time no other thing than the captaine of a companie, which they called a Constableship, as we oftentimes read in *Froisard*. And in the records of the Chamber of accounts I remember I haue red, three
D hundred Constables to haue beene at once in the armie. We read also that by the decree of the yeare 1274. *Simon* Countie of Montfort was excluded from the successiue right which he pretended to the honor of the Mareshalship *D'lafoy*, which the lords of Mirepoix challenge vnto themselves in their styles. And forasmuch as certeine Mareschals of Fraunce would haue continued their estates in their posteritie and successors, they were embarred so to doe by a decree made in Parliament the xxij of Ianuarie, in the yeare 1361, as is to be found in the records of the court: wherein it is expressly set downe, That the estates of the Marshalships of Fraunce should bee as part of the demaine of the Crowne, and the execution thereof to remaine vnto the Marshals so long as they liued. And albeit that the power of the Mareschals was not of force but in time of warre, (as was iudged by a decree of the xv of August in the yeare 1459,) yet neuerthelesse the militarie discipline carried with it the power of the sword, albeit that it were not giuen vnto it by expresse Edict or law; as in nothing communicating with the decrees and lawes of ciuill pollicie, or of other the ciuill magistrats; which seemeth from the auntient manners and customes of the Romans to haue beene vnto vs translated. For albeit that the power of the sword, yea and of punishing with rods also was by the law *Portia* taken from all the Roman magistrats (so that it was not lawfull for any of them, or for all of them in the citie to beate or scourge a Roman citisen, as we haue before noted,) yet neuerthelesse the Consull had still full power of life and death ouer the souldiours and men of warre, (without which their militarie discipline

Some publique offices to be without any iurisdiction or commaund at all.

The states of the marshalships of Fraunce part of the demaine of the crowne.

Magistral magistrates and Generals must of necessity have the power of the sword given them.

could neuer have bene kept and preferued) from whom there was no mean to appeal as saith *Polybius*, and for that cause saith he, the Consuls had royall power: howbeit he marked not, that the Prætors, Dictators, Quæstors, and other Generals of their armies, had euen the selfe same power. In like manner the Constable of Fraunce by his letters of commission hath not the power of the sword, or of life and death graunted vnto him: but hauing the managing of the warres, and conducting of the armyes, as in his absence the Marshalls of Fraunce haue: the power of the sword is also left vnto them, as without which militarie discipline cannot possibly be maintained: which martiall power the simple captaines abused also, putting their fouldiours to death, without any forme or fashion of iust triall. Vnto that *Henry* the second the French king, at the request of *Francis Colineus* the Dandelor, then Colonell of the footmen, by expresse edict forbid them any more so to do.

If then the martiall Magistrats and Generals haue in euery Commonweal the power of the sword without any limitation or restriction vnto the forme of proceeding or of the punishment to be by them inflicted, according to the varietie of crimes and offences, all being as it were left vnto their owne discretion and iudgement, a man then cannot truly say them to be but the simple executioners of the law, considering that they haue no law whereunto they are in this regard subiect: and so consequently we may conclude, that the power of the sword is transferred into their persons, that power now not remayning in the prince alone. Whereby it also followeth, that they being present, may commit vnto others, so much of that power and authoritie which they haue by vertue of their place and office, as they please, and retaine thereof vnto themselves what shall seeme vnto them good, which they could in no wise doe, if by speciall law they were constrained and bound, to heare & determine of matters themselves, and from word to word to follow the solemnitie and paines set downe in the lawes. And this is it for which the law saith, That the Prætor of the citie, being himselfe present, might commit his authoritie and power to whom soeuer hee saw good, which the Prætors for publike causes could not do: for the Prætor of the citie had the hearing and disciding of all ciuill and criminall causes, (except such as they called publique, as belonging to the common state) which fell out betwixt the citisens of Rome: as had also the Prætor, established for the hearing of causes betwixt straungers and citisens, who according to their discretion condemned, or acquitted such as were conuicted before them, moderating, correcting, or supplying the rigour or lenitie of the law as they saw cause, which their power was limited by the will and discretion of the Prætor so iudging, and not by the necessitie of the law. And yet when as by the law or decree of the Senat, any particular cause otherwise out of their iurisdiction was committed vnto them, albeit that it were referred vnto their conscience to iudge thereof, yet neuerthelesse could they not in this case commit the same vnto others, as is to be seene by many examples noted by the lawyers. Which point so manifested leadeth vs vnto the disciding of an other question by vs before propounded: *viç.* That the power and authoritie graunted vnto Magistrats by vertue of their office, is proper vnto the office, albeit that the honour and dignitie of the office be not proper vnto the person: for *Papinian* saying, That Commissioners and Lieutenants haue nothing proper vnto themselves, but that they vse the power and authoritie of them, which haue commisionate and deputed them, sufficiently sheweth, that the power is proper vnto them which so commisionate and deputed them, whether they be Soneraigne Princes, or Magistrats hauing power so to doe. And so in like case the law sayth, That the Gouvernour of a countrey or prouince, hath within his government all power and authoritie next vnto his Prince: wherefore it is not then onely in the prince. But the

The power and authoritie graunted vnto magistrats by vertue of their office, proper vnto the office and not to the person of the magistrats.

difficultie

A difficultie of this question dependeth principally on this distinction, (whereunto the interpretours of the law haue had no regard,) as namely, that it is great difference to say that the power or authoritie is proper vnto the Magistrat in the qualitie of a magistrat, or in the qualitie of a particular person: for it followeth not, that if the authoritie or iurisdiction be proper vnto the Prætorship, that therefore the Prætorship should be proper vnto the person: but to the contrarie the law saith, That he hath it in trust, and that he is but the keeper thereof. So we call the Prouost of Paris the keeper of the Prouostship of that citie; which is to speake properly, and to show, that the estates and offices rest and remaine in the possession and proprietie of the Commonweale, as a thing put in trust vnto the magistrat. And for that cause the Bailiffes of cities and townes are so called of the word (Bail,) that is to say Gardiens or keepers. So also the Florentines called the Ten men deputed to the keeping of their state and soueraigntie by the name of Bailifes. And that is it for which the Court of parliament in the decree concerning the Mareschals of Fraunce (before noted) saith, That their estate was of the proper demaine of the Crowne, as thereunto properly appertaining, and the exercise thereof belonging vnto them so long as they liued. And so we may discide the generall question, and discusse the controuersie betwixt *Lothaire*, and *Azon*, who spake but of the power of the sword onely: and conclude, that as oft and whensoever the Magistrats and Commissioners are bound by the lawes and decrees, to vse the power and authoritie which is giuen them, in such prescript forme and manner as is therein set downe; whether it be in the forme of proceeding; or concerning the punishment; without power for the magistrats to adde or diminish any thing thereunto, or from: in this case they are but meere executors and ministers of the lawes and of the princes, from whom they haue their authoritie: yet not hauing any power in this point or respect in themselves, whether it be concerning ciuill policie, or the administration of justice, or the mannaging of warre, or treaties to be had betwixt princes, or the charges of Embassadours: but in that which is left or committed to the magistrats integritie and discretion, in that case the power and authoritie lyeth in themselves.

The proprietie of offices to belong vnto the Commonweale; and to be with the magistrate but as things left with them in trust.

When the power and authoritie lieth in the magistrate, and when not.

D Now as in euery Commonweale there are two principall points which the magistrats ought alwaies to haue before their eyes: that is to say, the Law, and Equitie: so say we, that there is also the execution of the law, and the dutie of the magistrat, which the auncients called *Legis actionem*, and *Iudicis officium*: or as we say, the action or execution of the law, and dutie of the judge; which is to commaund, to decree, or to put in execution. And as the word *Iudicium*, or judgement, is properly vnderstood of that which is ordained by the magistrat following the strict tearmes and tenour of the law: so the word *Decretum*, is likewise properly vnderstood of that which the magistrat ordaineth or decreeth, following equitie without the prescript law; the law it selfe being still referred to the strict execution thereof, and equitie vnto the dutie of the magistrat. And for this cause all the decrees of the Prince are properly called *Decreta*, and not *Iudicia*, Decrees I say not judgements: for why the soueraigne prince is not subiect vnto the law; wherein they deceiue themselves, which take a decree to be any thing else then the resolute sentence of the Senat in their consultations: or the decree of a soueraigne prince, or the voluntarie ordinance of a magistrat, without being bound to law or custome in the making thereof. Now such proportion as there is of the law vnto the execution thereof, the like there is of equitie vnto the office of the judge. And so likewise of magistrats, who in case wherein they are not subiect to the law, resemble arbitrators: but being strictly and wholly bound vnto the law, are but as judges appointed to vnderstand of the fact onely, without any power of themselves to determine of the merit or iustice of the cause, otherwise than the verie strictnesse of the law appoin-

Two things to be alwaies in euery Commonweale by the magistrate principally respected.

The difference betwixt a judgement & a decree, and so likewise of magistrats, which haue power and authoritie in themselves, and others which haue not.

appointeth. Now of these the one is servile, the other is noble; the one is bound vnto the law, the other is not so; the one vnderstandeth but of the fact, the other of the right; the one is proper vnto the magistrat, the other is reserved vnto the law; the one is precisely written in the law, the other is without the lawes: the one is in the magistrats power, and the other quite without the same. And the better to note and perceiue this difference, the law saith, That it is not lawfull for a man to appeale from the punishment set downe by the law, being pronounced by the magistrat, but onely from that the judge hath declared and denounced the partie accused to be guiltie: whereas it is right lawfull for a man to appeale from the punishment which the judge by his owne discretion appointeth: For he which appealeth from the law, appealeth from the prince, from whome no appeale is to be made. And thus much concerning the distinction of the power of magistrats, whereby not onely the question of *Lothaire* and *Azon* is decided, but many others also concerning the charge and duetie of magistrats, wherewith diuers haue sore entangled themselves, some mistaking the practise, and some the theorique, but most part, for not hauing vnderstood the Roman estate, albeit that they were well exercised and scene in all the parts of their lawes, and yet neuertheless in the state of magistrats, concerning their power and authoritie they found themselves greatly troubled. For *Moulin* himselfe (the honour of lawyers) not vsing the distinctions by vs before set downe, hath without reason followed the opinion of *Alciat* and *Lothaire*: Whereunto he addeth the Pretors of cities, whome wee call Bailifes, and Seneschals, by the lawes of this realme, to haue had the power taken from them for the appointing of their deputies: for that they are but as simple vsagers or occupiers, and that he which hath a thing but onely to vse and occupie, cannot make any other vsager or occupier but himselfe; which is a reason without apparance, as we haue before shewed. VWhereunto ioyned also, that it is not past an hundred or six score yeares at the most, since that *Charles* the seuenth, and the eight, were the first which made an office of the Lieutenants, or deputies of Bailifes and Seneschals. For if *Moulin* his opinion were grounded vpon reason, why should *Papinian* expressly say, That magistrats may depute and commit in their presence so much, and so long, and with such limitation as they themselves please, of such things as they haue by vertue of their office, and which are proper to their estate? Now their magistrats estates and offices in auncient time were much lesse proper, and lesse appropriat vnto the persons, than they be at this present. For with vs they ate perpetuall, and in Rome they continued but for one yeare; and therefore might with much better reason than they appoint their lieutenants or deputies. Besides that, the lawyers themselves haue made and written diuers expresse bookes concerning lieutenants and deputies, which were all to no purpose, if the comparison of him, which hath but the vse onely vnto the magistrat, were to be admitted and receiued. And as for others, the auncient doctors and interpretors of the law; they haue in such sort entangled themselves, as that it evidently appeareth them to haue had no insight into the estate or gouernment of the Roman Commonweale: without which it is impossible to determine any thing concerning these questions. For whereas the Romans had properly separated the office of the Proconsuls Lieutenant, whome they called *Legatum*, from the office of the Proconsull himselfe: and so of the deputie rearm'd a particular Commissioner, whome they called *Iudicem datum*, from the Commissioner himselfe, and of him vnto whome power was giuen by the magistrat to commaund, whome they called *Eum cui mandata in iurisdictione est*, the doctors haue confounded all together vnder the name of Delegates, which were a thing too long, and too superfluous to refute, hauing proposed vnto our selues no other end, but to entreat of that which concerneth the estate and duetie of magistrats in generall.

No appealing
from the lawes;
and why?

A It is also worth the noting, that in Popular and Aristocratique estates, such as were those of the Greekes, and of the Italians, their chiefe drift was so much as they could, so to bind their magistrats, gouernours, ambassadours, captaines, lieutenants, and other their great officers & ministers vnto their lawes, as that they should not one iot swarue or stray therefrom: which the auntients did much more than they of our time: whereas in a regall monarchie it is quite otherwise, where in publike iudgements all paines and penalties, and in priuat iudgements that which concerneth euerie priuat mans right, is left to be iudged and determined according to the discretion of the magistrat. And albeit that *Iustinian* the emperour made a law, That euerie mans right should be tried by the law, so to haue kept the magistrats within the power of the lawes: yet was that his law to no purpose, but much troubled all the judges and lawyers, willing to obserue the same his law, being impossible to be kept, and incompatible with the other auntient former lawes. For why, that which concerneth euerie mans right, consisteth in fact, and not in the law: by which words *Paulus* (the great lawyer) seemeth euen by the root to haue cut vp all the opinions of all the interpretors of the law, being not only in number almost infinit, but also altogether inexplicable, thereby giuing men to vnderstand, that that which concerneth euerie mans right, ought not only in priuat, but euen in publike iudgements also to be left vnto the fidelitie, integritie, conscience, and wisdom of the magistrat. VWhich with vs is by a royall constitution provided for, and by the vse of iudiciall proceedings, in respect of the infinit varietie of causes, places, times, and persons: which for that they are infinit, can in no lawes, writings, or tables, be comprised, and much lesse vnder any certaine rule be comprehended.

The Magistrates in Popular and Aristocratique estates much more bound vnto the precript lawes then in a regall Monarchie.

Why in itall of priuat mens right, as also in publike iudgements, many things are to be left vnto the wisdom and conscience of the magistrat?

C Now I haue before said, that there was a new officer erected in Rome, who was the Prouost or Pretor of the citie, with power giuen him, to correct, supply, and amend, the lawes and customes, in that which concerned his iurisdiction, so farre as hee saw good in priuat iudgements: and euerie yeare the new chosen Pretor in the Tribunall seat appointed for the making of orations, after he had thanked the people for the honour he had of them receiued, gaue them there to vnderstand of his edicts, and in what sort his purpose was to administer the law. VWhich his edicts he caused afterwards to be painted, and set vp in some publike place: which for al that were not lawes, neither had the force of lawes, but were only edicts (that is to say, the magistrats commands) wherunto neither the people, nor the Senat, nor the Consuls, nor the other Pretors, nor the Tribunes, nor yet the successors in the selfe same office, were not in any wise bound, but onely particular men, and they also but in that which was within the Pretors power and authoritie, as concerning their priuat suits, and businesse betwixt man and man. And therefore *Cicero* taunting *Verrus*, intemperatly abusing the power and authoritie of his Pretorship, saith, *Qui plurimum edicto tribuunt legem annu am appellant, tu plus edicto complecteris quam lege*, They which attribute most vnto an edict, call it but an annuall law, but thou comprehendest more in an edict, than in a law. For the magistrat how great fouer he be, cannot of himselfe derogate from the law, and much lesse abrogate the same: for these things we haue shewed properly to belong vnto soueraignie. Neither must we vnderstand, that the *lawyer when he saith, That the Pretor might correct, amend, or supply the laws, that he had therefore power to derogate from them, or to disannull them, which is the highest point of soueraignie: but that hee might by the authoritie of his office expound the obscure lawes, and in what they might with equitie be extended, yet without breaking or impugning the same. And that is it, for which the law generally saith, That the Pretor neuer could giue possession of the goods vnto them, who by the lawes and ordinances could not be the heires. Neither was it also in the power of the Pretors, nor yet of all the magistrats together, to make

The power of the Prouost or Pretor in the citie of Rome.

Papinian.

an heire of him which by the lawes could be none; for why, that was to be done onely by vertue of the law, whereby the magistrat by his definitiue sentence declared, the succession to belong to such, or such a man, whome the law or the testator had appointed heire. And albeit that diuers of the Pretors edicts were more reasonable and indifferent then the lawes themselves; yet so it was, that the first Pretor that would, might (without regard vnto all the edicts of his predecessors) make all new, or againe reuiue such lawes, which by reason of their antiquitie, were before buried in obliuion. And this was the cause that the Tribune *Æbutius* presented a request vnto the people, which passed in force of a law; which was that the lawes of the twelue tables, which by long tract of time were then growne out of vse, might by an expresse law bee repealed and abolished: which law needed not, if the Pretors by vertue of their edicts had had power to derogat from the positiue lawes. Yea the Pretors themselves did not alwaies in the administration of iustice follow their owne edicts, but spared not sometime to giue iudgement quite contrarie vnto them, especially if the equitie of the causes vpon some strange occurrents so required; sometimes also chaunging them for the grudge or fauour that they bare vnto certaine priuat men: which thing *Cicero* by way of reproach objected to *Verres*, saying, *Ille nulla religione motus, contra quàm edixerat, decernebat*, That he moued with no religion, iudged quite contrarie vnto that which hee himselfe had before decreed. Howbeit that this reproach was but a floutish of the Orators, and not of any great importance: For as no man was subiect vnto the law which hee himselfe made, so also might he vpon good and iust cause derogat from the same. Yet certaine yeares before it was enacted by the people at the motion of *Cornelius* the Tribune, That the Pretors, and so euerie other magistrat also should bee constrained in giuing of iudgement, to obserue their owne edicts by themselves published and set vp at their first entrance into their office, and not to depart therefrom; which cut off many courtesies and fauours which the magistrats before shewed vnto such as they thought good. Neuerthelesse this law being published without the good liking and consent of many: and also contrarie vnto the nature of lawes (which can neuer bind them that made them) was shortly after abolished. Howbeit that the magistrats for their owne particular, and in their owne causes, were constrained to endure the same edicts, iudgements, and decrees, which they themselves had made, and caused to be executed vpon others: yet that notwithstanding the magistrats were alwaies at libertie, to derogat from their owne edicts, or to alter the same, whether they were published for the whole yeare that they were Pretors, or for a moneth, or for some few dayes or howres. For generally the law saith, That the magistrat may reuoke that which he hath decreed, and forbid that which he hath commaunded, although that he cannot reuoke that which he hath once iudged and pronounced sentence of. For that iudgements and decrees giuen or made vpon the hearing of a cause, cannot without iniurie be reuerfed or changed, as also for that nothing ought to be more firme and sure then iudgements once giuen, as whereby all ciuill societie is especially maintained: wherein many interpreters of the law haue deceiued themselves, calling the magistrats simple commaunds, precepts, and not edicts: whereas an edict (as saith *Varro*) is nothing els but *Magistratus iussum* (that is to say) the magistrats commaund, and whereof another error hath risen also, *viz.* That such the magistrats simple commaunds should bind no man: For so the auntient doctors affirmie. VVhich their opinion, if it were true, wherefore then should the law commaund vs to obey the magistrats bare commaund, without regard whether it be iust or vniust? Or why should the lawyer *Matian* say, *Reipublice interesse, ut iniustis & ambitiosis decretis pareatur*, It behoueth the Commonweale, that euen vniust and proud decrees (of the magistrats) should be obeyed. Yea and all the

The Magistrat may reuoke his owne decrees or commaunds, but not his iudgement once giuen.

The Magistrates simple commaunds of right ought to be obeyed.

auntient

Auntient Philosophers and law makers, haue mote religiously recommended nothing vnto vs, not onely than the lawes, but euen than the writings and decrees of the wise. Now it is more reasonable to obey a simple verball commaund, which is but for a day or an howre (if we doubt or mislike of the equitie thereof) than to the commaundements which were for a yeare, as were all the edicts of the magistrats: besides that it was more easie to performe the one than the other. And that more is, the lawes, the ordinances, the decrees, and sentences, of themselves bind no man, if the commission (that is to say, the magistrats commaund) be not on foot. And therefore the Roman Pretors, and other their great magistrats, seldome times troubled themselves with giuing of iudgements, but were still occupied in appointing of iudges, in commaunding and the putting in execution of the sentences and iudgements of such iudges as had by them bene appointed. Whose verball commands (as these men tearme them) had they bene of no force to bind men, the decrees and iudgements of such as were by them appointed, should haue bene to no end or purpose, neither should they haue bene obeyed. And therefore the law permitteth all magistrats by punishment or penaltie to cause their commaunds to be obeyed, without distinction whether they bee commaundements verball, or by way of commission, or by decrees by them made, or by iudgements by them giuen.

Of this errour (for not obeying the magistrats command) is risen also a farre greater, some defending that it is lawfull for men in fact, and by force to resist the magistrats, **C** offering them violence, (for that is the word which they vse) whether it be in the administration of iustice, or otherwise out of the same. Howbeit that the difference is great betwixt the one and the other: for that the magistrat out of iudgement, and out of the qualitie of a magistrat, is no more but as a particular man, and so if he by word or deed wrong any man, he may be resisted, in such sort as the law permitteth: but in the execution of his charge within his power, not exceeding the bounds of his iurisdiction, there is no doubt but that he ought to be obeyed, whether it bee right or wrong, as saith the law. But if he shall exceed his authoritie or power, a man is not bound to obey him, especially if the excesse be in it selfe notorious, but may defend himselfe by oppositions and appeales: but if he may not appeale, or that the magistrat will not admit his appeale, but proceed against him; in this case it is to be considered, **D** whether the griefe be to be recouered, or otherwise irrecoverable: which if it be to be recouered, no resistance is then to be made against the magistrat; but if the case be irrecoverable, as in question of life, or of corporall punishment, and that the magistrat will needs proceed without regard of any appeale, in this case it is lawfull for euery man to make resistance, not of purpose to crosse or offend the magistrat, but onely to defend the life of the innocent man in danger, yet so farre as that it be done without fraud or seditious tumult: not for the violating of the magistrat, as we said, but for the deliuerance of him which is with iniurie by the magistrat oppressed. As when *Appius Claudius* enflamed with the desire and lust of the faire maiden *Virginia*, (wrestling the lawes) was about to giue sentence against her libertie, *Virginus* her father to preserve the honour of his house, and wishing rather the death of his so faire a daughter, than that she should so loose her virginitic, slew her openly with his owne hand, and so set all the citie on an vproate. Which desperat boldnes of the man was not indeed to haue bene suffered, neither ought the quiet estate of the Commonweale to be with such outrageous facts troubled, what violence soeuer be done by the magistrat. Howbeit that it belongeth not vnto priuat men to iudge whether the magistrat offer to doe wrong, or not: which to determine, if it appertaine but vnto the greater magistrats, or the Prince onely, in vaine then it is to aske whether priuat men may by force resist the

Whether priuat men may by force resist the Magistrat offering them violence or wrong.

Priuat men are not to iudge whether the Magistrat do them wrong or not.

magistrates, offering them violence? but onely this, whether Magistrats which go a-
 bout to put in execution their sentences of life and death, or for the inflicting of some
 corporall punishment, contrarie vnto appeales from them made, may of right bee
 withstood: which that they lawfully may be, I doubt not, so that it be done without
 fraud or tumult, in cases of life and death: but if iudgement be of goodes, or fines, or
 imprisonment, I thinke it not to be lawfull, for that all these things may be amended,
 either by intercessions, or by appeales, or by actions of trespassse, or iniurie, or by way
 of petition. But in other causes lawfull it is not by the law either of God or man to
 withstand the magistrat offering vs violence: as many euill taught, and worse instru-
 cted in ciuill pollicie and gouernement most daungerously affirme: by whose positi-
 ons (if they will be like themselues) the estates of all cities and Empires must needs be
 troubled and confounded. For if it were lawfull for the subiects by force to defend
 themselues against the magistrats, they might vpon the same reasons and grounds re-
 sist their soueraigne Princes also, and tread the lawes vnderfoot. Wherefore we see
 the lawmakers and lawyers to haue respected nothing more, than to keepe all force,
 and violence, not from the magistrats onely, but euen from priuat men themselues,
 hauing violence in so great detestation, as that they haue restored euen theeues and
 robbers into places, vniustly by them possessed, if they were from thence by force cast
 out, and excluded the true owners thereof from their rights for proceeding by way of
 force. And albeit that some particular men hauing territoriall iurisdiction, may (in the
 opinion of many) in a sort in their owne right of themselues lay violent hand, vpon
 the land holding of them: when as the vassall neglecteth his duetie vnto his Lord, yet
 the truer opinion is that he cannot in his owne cause so doe, for that it is a thing iniu-
 rious and vnreasonable, that any man should be a iudge in his owne cause, or giue sen-
 tence for himselfe. Now the law which forbiddeth priuat men to doe that, which
 ought to be done by the magistrat, hath this reason ioyned with it, lest occasion should
 be giuen of greater sturre and tumult. The law also of the xij Tables, which saith:
Vis in populo abesto, Let violence be from among the people, is not to be vnderstood
 onely of violence to be done by force of armes, whether it be publicquely or priuately
 done: but also when men would haue things otherwise done then by the ordinarie
 way of justice: as when things are done by priuat mens authoritie, which should haue
 beene done by the Magistrat or iudge. And if it bee not lawfull for the true lord or
 owner to put his seale vnto his owne things being in the possession of an other man;
 how then should it be lawfull vnto the territoriall lord of himselfe to enter or seize vp-
 on lands, the propertie whereof belongeth vnto an other man? Wherefore the opi-
 nion of *Plato* is to be of vs reiected, who in his bookes of lawes hath left the shamefull
 violence and abuse offered vnto maydens or boyes, to be reuenged by their kinsfolke,
 and not by the Magistrat.

Now of this question dependeth an other; as whether the Magistrat may reuenge
 the wrong and iniurie offered him, as he sitteth in place of justice: whereof what to say
 the lawyers haue not yet determined. Neuerthelesse without entering into farther dis-
 pute, it is and alwaies hath beene lawfull for all Magistrats exercising their estate or
 commission, to condemne or chastice them, which giue vnto them rash or contume-
 lious speech, and to proceed against them by way of fine, or by seizing vpon their bo-
 dies or goods, according to the power and authoritie vnto them giuen; if the wrong
 or iniurie offered be not such as may deserue corporall punishment: for then the ma-
 gistrat ought to lay aside his publique person, and to receiue iustice at an other mans
 hand. But yet if the iniurie be done vnto the whole companie or bench of Iudges, or
 Magistrats, in this case they may enquire and iudge of the crime or offence, and so
 altogether

In what cases the
 magistrates offer-
 ring wrong, may
 of right in their
 iudgements be
 withstood.

Violence in Co-
 monweales, to be
 alwaies detested.

Whether the ma-
 gistrat may re-
 uenge the wrong
 and iniurie offer-
 red him as he sit-
 teth in place of
 iustice.

Altogether lawfully do that which they could not do apart: and the reason seemeth to be, for that in so doing they punish not the wrong done vnto themselues, but vnto the Commonweale, which is therein farre more wronged than are they which beare the persons of magistrates. And albeit that the law saith, That the action of iniurie is easely to be forgiven, and that it is soonest by sufferance buried; that is to be vnderstood of particular men, & not of publique persons, and especially of Magistrates vnto whom whosoever shall offer violence, is by the law in danger of treason. And for this cause an outrage committed against the person of a Magistrate, the indignitie of the fact is together with the heavinesse of the punishment thereby encreased: and that not onely when he exerciseth his estate, but also in what place soever it be wherein he carrieth

B with him the marks and tokens of his office, or is knowen to be such a man, he ought to be inviolable, and as the auntient Latins say, *Sacro sanctus*, or most holy: for that word the law, Horatia (published for the safetie of Magistrates) useth, conceived in these words: *Qui Tribunis plebis, Aedilibus, Iudicibus nocuerit eius caput Ioui sacrum esto; familia ad adem Cereris, liberi, liberaque vanum ito*, He that shall hurt the Tribunes of the people, the Aedils, or Iudges, let his head be sacrificed to Iupiter, and his familie and children, male and female, sold at the Temple of Ceres. Wherein some are of opinion that the word *Iudicibus* (or judges) is meant or to be vnderstood of the consuls, who were afterwards the onely judges amongst all the magistrates: whereof they haue some probabilitie, for they were first called Pretors, and after that Iudges; and after

C that their iurisdiction for the citie was giuen to one speciall Pretor, they were called Consuls. Howbeit neuerthelesse it seemeth that the law Horatia hauing put the judges after the Tribunes, and the Aediles whome they called *Aedituos* (for why, the great and honourable Aediles, whome they called *Curules*, were not yet erected) was meant to comprehend all judges; considering withall, that the law it selfe was not published at the request or motion of any of the Tribunes, or in disgrace of the Consuls, but at the motion of *Horatius* the Consull himselfe. And this law Horatia was made fortie foure yeares after the sacred law Iunia, made for the safetie of the Tribunes of the people: whereby they were as by a speciall law, more religiously provided for than were the rest of the magistrates. VWhereby it appeareth this law to appertaine to all magi-

D strats, but especially vnto judges, whose liues and persons are the more subiect to all daungers, in that they are to iudge of the liues, honour, and goods of all the subiects. And therefore the law saith not, That he that killeth the judges (shall die therefore) but if hee shall offer them neuer so little violence; that is to say, *Si nocuerit*, which is, if hee but hurt them. And well it is to be noted, that it is not said, as they are exercising their authoritie and iurisdiction onely, but euen in what other place soever they bee: which otherwise were but to open a gap to haue them slaine in euerie other place where they sat not in iudgement. So when as with vs a certaine noble gentleman beeing called in-

E to question, had with his sword wounded one of the judges of the court of Paris, not as then sitting in iudgement: the court condemned him to haue his right hand cut off, his bodie afterward to be quartered, his goods confiscated, and a most great fine to be paid vnto the judge. But if the magistrat disguised, or walking the streets by night to doe any man harme, shall himselfe chance to be by any man hurt, hee cannot redresse such his wrong as done vnto a magistrat, but as vnto a priuat man. So *Aulus Hostilius* the Aedile, when as by night hee had attempted to haue broken open a Courtisans doores, was there grievously hurt: whereof he complaining vnto the people, in hope to haue found some good remedie, was sent away with shame enough; for that the outrage vnto him done, was not to be punished as done vnto a magistrat. VWhich ought not to seeme strange, seeing that one of the Tribunes, who had vnlawfully abu-

Private iniurie soonest by sufferance buried.

That the person of the magistrat ought to be alwaies sacred and inviolate.

An heauie ensure vpon a man for striking of a magistrat.

fed a boy, and taken by the Capitall Triumviri, was by him punished as a flauce or stranger (the rest of the Tribunes his fellowes forsaking him, as abhorring his most filthy lust) albeit that the sacred lawes forbid vpon paine of death to offend the Tribune, or to commaund him to be punished for what thing soeuer. In like case if the magistrats went roauning vp and downe masked, and priuat men went masked also, carrying with them the markes of magistrats, as in Rome they did during the feast of Cybele: if any iniurie happened to be so done vnto the magistrat, it was not punished as done vnto a magistrat, but vnto a priuat person: howbeit that out of these cases the magistrat is to be holden for such as he is, in what place soeuer he be.

Magistrats to be
alwaies relige-
ously respected.

Neither is it not onely vnlawfull to offend or abuse the magistrats by word or deed, but necessarie it is, that we should duefully respect and honour them, as them vnto whom God hath giuen this power: which thing we see the auncient Romans (from whom the fountaines of law and iustice flowed into all the world) to haue much more religiously obserued, than did the other nations. For the Censors disgraced and degraded from his order a boutgeois of the citie, by taking away from him his horse, for that he had but coughed and spauled a little too lowd in their presence. And *Vestius* a citizen of Rome, for not rising vnto the Tribune of the people, but passing by him, was by the people slaine. Yea the law it selfe calleth it sacrilege, not to reuerence the magistrat. VVe vnderstand also not the same, but yet great reuerence to haue beene giuen vnto the magistrats euen amongst the Greekes also, in that it was not lawfull for a man to laugh in the councell of the Areopagits. VVe read also, that *Fabius Maximus* his sonne seeing his father a farre off comming towards him, and that the Licitors or officers for his fatherly reuerence durst not cause him to alight from his horse, commaunded him himselfe to alight: which his commaund the father obeying, alighted and embraced his sonne, making much more of him, than if he had done otherwise. For domesticall power (as saith the law) ought to stoope vnto publike authoritie. True it is, that in those times and in those places offices were giuen to vertue, and not to them that offered most: for then verily was the time wherein rewards were set vp for vertue: Howbeit that the lawes against ambition, and the auncient histories sufficiently declare honours and offices to haue bene oftentimes in Rome, *de lapide emptos*, as saith *Cicero*. But howsoeuer power and authoritie be got, whether it be by fauour, by wealth, or force of armes, we must not therefore contemne the magistrat, which cannot bee done without the contempt of God, from whome he hath his authoritie, in whatsoeuer sort it be. As witnesse that speech of God vnto *Samuel* judge of Israel, now growne weake with age: whose commaunds when as the people did refuse, it is not thee (saith he) but me, whome they haue despised.

The dutie of the
magistrat for the
maintenance of
his reputation.

Now if these deriders of authoritie and power, be not to be moued either with the feare of God, or the touch of religion, yet can they not denie, but that it is more than necessarie for priuat men to obey, respect and honour the magistrats, for the defence of Commonweales, and of the ciuill societie of men. Which the auncient Poets haue vnto vs well set forth in their deuised fables, making the goddesse *Pitharchie* (which signifieth the obedience of subiects vnto their princes and magistrats) wife vnto *Iupiter Saviour*: and of that marriage *Eutuchia* (that is to say Felicitie) to haue bene engendred and borne. Wherefore the magistrat on his part also ought to giue a good opinion of himselfe, for his iustice, wisdom, and sufficiencie; that to the subiects may haue occasion to honour and reuerence him: and not by his vnworthinesse to suffer the honour of the Commonweale to be troden vnderfoot or despised: for the fault which in a priuat man is but light, is in the person of the magistrat doubled. And therefore *Solon* in his lawes gaue leaue to kill the drunken magistrat, without any daunger of punishment.

A ment therefore. Truly an vnreasonable law, for that it was thereby to be feared, least vnder the pretence of drunkenesse the magistrats life should be oftentimes endaugered. VWhereby yet we may gather, how much vice was then detested, as also with what integritie, seueritie, and wisdom, magistrats ought to excell other men. And yet ought we not to imitat them, who by the rigour of punishment seeke to bee accounted seuer; or by their too much lenitie, desire to be accounted gentle, both the one and the other being therefore worthily reprobued by the law. VWherein many haue mistaken themselues, who hauing extraordinarie power to punish without law, haue thought equitie to consist in lenitie and mercie, repugnant to the rigour of the lawes: howbeit that equitie is of such a nature, as that it in nothing communicateth either

B with rigour, or with mercie; but declining from both the extreames, crueltie (I say) and mercie, keepeth clemencie, the preseruer of them both: not vnlike the Lesbian rule, which being of lead, yeelded as well vnto the one side as to the other. Now if the offence be greater than the punishment appointed in the ordinarie lawes, the magistrat hauing extraordinarie iurisdiction and power may as an vpriight iudge augment the punishment: So if the fault be lesse, he may with like equitie mitigat the punishment by the rigour of the law appointed. And truly the magistrat in seeking to be accounted pitifull offendeth more, than if he should seeme to be cruell: For crueltie, although it be indeed to be blamed, yet keepeth it the subiects in obedience vnto the laws, for feare of punishment; whereas too much lenitie giueth libertie vnto offence, and causeth the

C magistrat himselte, the lawes, yea and the prince which established the lawes, to bee altogether contemned. And this is it for which the law of God expressly forbiddeth to haue any pitie of the poore in iudgement. Some others there bee, which iudge well and vpriightly, enclining neither vnto crueltie nor mercie, but yet cannot keepe that grauitie and seueritie which best becometh a magistrat: as in our time one of the chiefe magistrats of this realme, who in the highest seat of iustice, and euen then when he pronounced the sentence of death vpon the condemned, would with one merrie conceit or other, minister vnto the hearers occasion of laughter. VWhereas *Augustus Caesar* did farre otherwise, who albeit that he was accounted a sincere and vpriight iusticiar, yet for all that he neuer pronounced sentence of death vpon any, but with deepe sighes fereuen from the bottome of his heart. Some other to the contrarie, all enraged, threaten and reuile them whom they giue iudgement of: as did ordinarily the emperour *Claudius*, who one day with a countenance more like a beast than an emperour, stricke him in the face with a pen knife, whom he was to pronounce sentence of death of. Yet blame I not the graue exhortations, and bitter reproofes of the magistrat vnto the offenders, and then especially, when as hee meaneth to vse more lenitie than the rigour and extremitie of the law requireth. For why, it is one of the things most requisite in a magistrat to cause the offenders to haue the better vnderstanding and feeling of the greatnesse of their offences: that so they may the better also perceiue and see what they haue therefore deserued, and so to be the rather induced to repentance. But

E it were a kind of iniurie, and not becoming the authoritie and wisdom of a magistrat to charge him whome he hath condemned to death, with opprobrious words also. *Papirius Cursor* was of all that liued in his time (than which none is said to haue bene more plentifull of vertues) a man most famous both at home and abroad in the wars, but so terrible with the maiestie of his commaund, as that hee caused euen the stoutest of his followers to tremble and quake at the force of his commanding speech: which his roughnesse of speech he for all that wisely tempered with great lenitie in the executing of punishment. As when the generall of the Preneestines was come vnto him with his promised aid after the battaile fought & the victorie obtained, *Papirius* with sterne

Lenitie or rigor
neither of them
commendable in
a magistrat.

Lenitie more
hurtful in a mag-
istrat than seue-
ritie.

Cruelty best be-
cometh a magis-
trat.

Papirius Cursor
a notable man.

countenance, and such speech as caused all there present to tremble thereat, having first reprov'd him, forthwith commaunded one of the Liſtors to vnbind his bundle of rods, and to make readie his axe: the fearefull captaine in the meane time expecting nothing but present death, when sodenly *Papirius* commaunded the same Liſtor standing readie with the axe in his hand, to haue done execution (as all men thought) but to cut vp a stub of a tree which stood in his walke, and condemned the negligent captaine in a great fine, which he right willingly paid, with great thanks that hee had so spared him his life. Whome if he had put to death, it was in daunger least that those his followers the Romans allies would haue thereupon reuolted: which so great a fault no doubt *Papirius* would not haue pardoned a Roman. But as there is great difference betwixt faults which are committed in watre, and elsewhere (for that as an antient captaine said, In martiall matters men scarcely offend twice) so must the militarie magistrats vse another manner of fashion of commaunding, of punishing, and execution of penalties, than must the magistrats in time of peace. For that the discipline of watre ought to be much more seuerer than the domesticall or ciuill government. And yet for all that ought not this martiall rigour to passe into crueltie, nor the generall to exceed the bounds of seueritie, as many commaunders do, who in nothing show themselves valiant, but in killing their souldiours without hearing. As *Seneca* propoundeth one act of *Piso* the Proconsull, for an example of his notorious crueltie towards his souldiours. For seeing a souldiour returning alone out of the field into the campe, from forraging, in a rage condemned him to death, for that he was returned out of the field without his companion, charging him, That hee had slayne him: the souldiour still alleaging, That his fellow was comming after him: which his excuse for all that *Piso* would not admit, but sent him presently to be executed. But lo, whilst that the execution was about to be done, he sodenly returned who was supposed to haue bene slaine. VVherupon the captaine which had the charge to see the execution done, returned to the Proconsull with both the souldiours, who embrasing one the other, were with great applausse and reioycing of their fellow souldiours brought before him: VVherewith the Proconsull enraged, caused them all three to bee put to death: The first, for that hee was before condemned: The second, for that he was the cause of his fellowes condemnation: And the captaine, for that hee had not done what hee was by him his generall commanded. So that for the appearing of one innocent man, he put three to death: which was not iustly to vse, but most cruelly to abuse his authoritie. VVhich his crueltie was so much the more to be detested, for that there was there no meanes to appeale, nor prince to flye vnto, nor ciuill exception to bee taken, by reason of the rigour of the militarie discipline. And thus much concerning the power and authoritie of Magistrats ouer particular and priuat men: It remaineth now to speake also of the power and duetie of one of them towards another.

More seueritie to be required in a Martiall magistrat then in a ciuill which leueltie ought not yet to passe into cruelty.

The notorious crueltie of *Piso* the Proconsull.

A

CHAP. VI.

¶ Of the mutuell duties of Magistrates among themselves, and of the power that one of them hath ouer an other.



B

Neuery well ordered Commonweale there be three degrees of Magistrates: The highest, which is of them which may be called soueraigne magistrats, and know none greater then themselves, but the soueraigne Maiestie onely: The middle sort which obey their superiours, and yet commaund others: And the lowest degree of all, which is of them which haue no commaund at all ouer any other magistrats, but onely ouer particular men subiect

Three degrees of Magistrats in euery well ordered Commonweale.

to their iurisdiction. Now of soueraigne magistrats, some haue power to commaund all magistrats without exception, and other some acknowledge no superiour but the soueraigne Maiestie, and yet haue no power ouer all the rest of the magistrats which are placed in the middle & lowest degrees, but ouer such onely as are subiect vnto their iurisdiction. Of the first sort of soueraigne magistrats which haue power ouer all others, and that know none their superiours, but the soueraigne power, there are but verie few, and fewer at this present then in auncient time: for that it is by daily experience found, nothing to be more dangerous in a Commonweale, then for some one

C

magistrat to be aboue the rest, who may lawfully commaund all the rest, aswell priuate persons as magistrats, wanting himselfe but one step or degree to mount vnto the soueraigntie, and that especially if his soueraigne magistrat which hath such power bee alone, and without a companion, hauing all in his owne hand: as had sometime the Grand Prouost of the Empire, whom they called *Præfectum Prætorio*, who had commaund ouer all the Magistrats throughout the whole Empire, and might receiue the appeales from all the other magistrats and gouernours; but might not be appealed from himselfe, no not although the appeal were made euen vnto the Emperour himselfe, albeit that the first which were promoted to this dignitie and ho-

Dangerous in a Commonweale to giue power to one Magistrat to commaund ouer all the rest.

D

nour, were but captaines of the prætorian legions: as *Seius Strabo* the first that was preferred vnto this office vnder *Augustus*: and after that *Seianus* vnder *Tiberius*. Which honour the other succeeding Emperours thought good to bestow vpon such as of whose integritie, fidelitie, and deuotion towards them they had had good experience and prooffe: such as they would in some sort to be their imperiall Lieutenants, vpon whom they for the most part discharged the mannaging of their greatest affaires, such as were by the Emperours themselues to haue beene discharged: as the hearing of imperiall causes: the receiuing and dismissing of Embassadours: the hearing of appeales from the Magistrats of all prouinces; which great charge for that no man could well execute, except he were skilfull in the Lawes, the Emperours in steed of captaines of their legions, preferred lawyers to that honour. So did *Otho* the emperour promote

E

Martian: *Seuerus*, *Papinian*: and *Alexander*, *Vlpian*. And at length vnder the Greek emperours, two great Prouosts of the empire were by the Emperours created, and at last three also, that the greatnes of their power so diuided might be lessened; and yet the honour thereof imparted to moe. Such soueraigne Magistrats were with our auncestours: the Master of the Pallace: and he whom they called the Prince of Fraunce: and of late *Henry* duke of Aniou, king *Charles* his great Lieutenant: and the chiefe *Bassa* in the Turkes empire: and the great *Edegnare* or *Diadare* in *Ægypt* vnder the principallitie of the Mamaluke Sultans. Yet in this they differ, that in the Turkish empire the Great Sultans children in the absence of their father commaund aboue all the Bas-

Soueraign power
to commaund o-
ner al magistrats
not to be giuen
to one alone, but
in the most daun-
gerous times of
the commonweal

In the presence of
the soueraigne
prince, all the
power of the ma-
gistrats holden
in suspense.

saes, and had the preheminence and precedence before them: and in Ægypt the great Edegnare commaunded ouer all the rest of the Magistrates, excepting such onely as had the keeping of the castles & fortresses of the kingdom committed to their charge, ouer whom he had no commaund. Which manner and custome whether the Princes of the East tooke it from ours, or our Princes from them, we still keepe together with the Italians, Germaines, Spaniards, and most of other Nations also. Wherefore the soueraigne power to commaund ouer all Magistrats and officers without exception, ought not to be giuen to one alone, but in case of necessity; as when the Commonweale cannot otherwise be preserved: and yet then not with the authoritie and countenance of a standing office, but by way of commission onely, such as were in auncient time graunted vnto the Roman Dictators, the Archo of the Thessalians, and Azymnets of the Lacedemonians; and now with vs are giuen vnto Protectors and Regents, in the absence, furie, or minoritie of soueraigne Princes. In the absence I say of the soueraigne prince, for that in his presence all the power & commaund of magistrats and commissioners cease: For as the force and strength of all riuers and foulds is together with their names lost and swallowed vp when they once fall into the Sea; and as the other heauenly lights, as well the planets as other starres, lose their light in the presence of the Sunne, or as soone as he approcheth the Horizon, in so much as that they seeme againe to render vnto him the whole light that they had before borrowed of him: euen so likewise all the authoritie of the Senat, and all the commaund and power of Magistrats cease in the presence of the prince. So we see that he which deliuereth the soueraigne princes mind, whether it be in counsell, or in soueraigne court, before the states, or vnto the people, still vseth these wordes, *So and so the king commaundeth, or saith.* But to the contrarie, if the prince be absent, the Chauncelour or President keeping the kings place aboue the other princes, pronounceth sentence or iudgement according to the opinion and mind of the Senat or Court wherein he sitteth, hauing ordinarie iurisdiction and power, and not in the name of the king. And for asmuch as *William Poyet* Chauncelour of Fraunce, and President of the great Counsell, in the absence of the king, oftentimes in iudgement vsed this forme of speech, *The king saith so and so vnto you;* he was therefore charged with treason, besides the other points of his accusation. Wherefore many are deceiued which thinke those lawes or Edicts which are published or ratified in the councell or court, in the presence of the prince, to be so published or confirmed by the Court or Councell: seeing that the Court hath then the hands bound, and that it is none but the king that so commaundeth, the motion or consent of his Attourney, the prince himselfe being then present, seruing to no purpose at all. And in Popular estates, the greatest magistrats as well as the least, in token of their humilitie, laid downe their mases and other tokens of honour before the people, and so standing, spake vnto the people sitting: showing, that in their presence they had no power at all to commaund. So all the motions made by the magistrats of Rome, were by way of humble request, as in this forme, *Velitis, iubetis,* May it please you, or commaund: VVhereunto the people there present, giuing their consent with a lowd voice, before the law *Cassia Tabellaria*, vled these words, *Omnes qui hic assident volumus, iubemusque,* All we that here sit will and commaund. And after the lawes called *Tabellarias*, the letters A. and V. R. written in the tables, signified *Antiquo*, (or, I repeale the law) and *Vti Rogas* (or, as you request). And in like manner the people of Athens gaue their voyces sitting, the magistrat in the meane time speaking vnto them standing, so long as they had any thing to say vnto them.

But then might some man say, If it be so, that the magistrats had no power to commaund particular men, nor yet one another, in the presence of the people which had the

- A** the soueraigntie. VVhy did the Tribune of the people send his vsher vnto *Appius Claudius* the Consull, to commaund him to silence? And why did the Consull to requite him with like, send his sergeant vnto him likewise, crying with a lowd voice, That the Tribune was no magistrat? VVhereunto I aunswere, that such contention and debate oftentimes fell out amongst the magistrats, and especially betwixt the Consuls and the Tribunes: yet may we not thereof conclude, that either of them had any power to commaund the one the other, in the presence of the people, both their authorities then ceasing. So a controuersie arising betwixt the high court of Patis, and the court of Aids, for wearing of their purple robes, and accompanying the king, not farre from *Henrie* the second the French king, the president of the greater court of Patis sent a sergeant vnto the judges of the court of Aides, to forbid them to go any further: (and albeit that the king was not so nie as that he could heare such the presidents commaund) yet receiued he such aunswere from the judges, That hee had no such power to commaund ouer the court of Aids, and if he had, that yet he could not rightly there vse the same in the presence of the king.

- But yet some man might obiekt and say, That if the magistrats had no power to commaund in the presence of the prince, they were no more magistrats, neither should so great regard be had of their honours and dignities the prince being present, so as we see there is. VVhereunto mine aunswere is, That the magistrats by the presence of the prince loose nothing, but still continue in their offices, and so consequently in their dignities and honours, their power to commaund being but suspended. As in like case the Dictator being created, all the magistrats continued in their estates and offices, howbeit that all their commaunding power was then holden in suspence: but so soone as the Dictators commission was expired, and he once out of his office, the magistrats againe commaunded by the same right they had before: which they could not haue done, if their magistracies and offices had so, & indeed bene from them taken. VVhich may serue for aunswere to that which might be alleaged of these words, which are oftentimes to be read in the writings of the auntient Romans, *viç. Creato Dictatore magistratus abdicant*, VVhereby it might seeme that the Dictator being created, the magistrats were out of office: which is not to be vnderstood of their offices, but of their power, as we haue before said, which was so for a while suspended. For otherwise the Dictator yeelding vp his office, the magistrats must haue sought for new power and authoritie from the people, their former power being before together with their office expired. And the reason is generall, that the power of the inferiour should bee holden in suspence, in the presence of the superiour: for otherwise the subiect might command contrarie to the will of his lord, the seruant contrarie to the good liking of his master, and the magistrat contrarie to the will and pleasure of his soueraigne prince: or might at leastwise oppose himselfe against him, and by the vertue of his office forbid the inferiour persons to performe the commaunds of their superiours: which can in no wise be done, without ineuitable preiudice vnto the soueraigntie; except it be that the prince laying aside the soueraigntie of his person, goeth to see how his magistrats commaund; as the emperour *Claudius* oftentimes went openly to see the doings of his magistrats, and without disguising himselfe sat beneath them, foolishly giuing to them the more honourable place: or else in case that the prince, his maiestie in a sort set aside, giue leaue to the magistrat to iudge of his cause. For the maxime of the law, which saith, That the magistrat of equall or greater power may bee iudged by his companion or fellow in office, or by his inferiour also, when he submitteth himselfe vnto his power, hath place not onely in priuat persons and magistrats, but euen in soueraigne princes also; whether it please them to submit themselves or their causes to the iudgement of

Why the power of the inferior magistrat is in the presence of the superior to be suspended.

other

Much more honorable for foueraign princes to referre the hearing of their own causes vnto the magistrats, than to iudge thereof themselves.

other princes, or of their owne subiects. And albeit that they may bee judges in their owne causes, vnto whome power is by God giuen to iudge, without beeing bound to the law, as *Xenophon* saith; yet neuerthesse it is much better becoming their maiestie, and more indifferent also for them in their owne causes to abide the iudgement of their magistrats, than to become judges thereof themselves. But to the intent that the soueraigne maiestie of princes should not in any thing be impaired of the greatnesse thereof, and yet that the brightnesse and glorie of the royall name should not dazle the eyes of the judges, it was wisely in this realme ordained by our auncestors, That the king should not plead but by his attorney; and that in all publike causes wherein the king or Commonweale were priuately interessed, the kings name should be still cancelled, and the matter pleaded but in the name of his attourney. Which thing the rest of the princes and others hauing territorial iurisdiction, haue afterwards imitated and followed. So *Augustus* the emperour writ vnto the lieutenants of his prouinces, That they should not suffer his name to be debased with being too common in their commissions, as *Tranquillus* reporteth. Yet is it by a certaine speciall custome by our auncestors receiued, that if the king will in priuat iudgements against priuat men, be restored, the kings attourney shall not in demanding thereof hold his seat and place, but chaunge the same, least he should seeme to plead a publike and not a priuat cause. But whereas we haue said, the power of the magistrats to be suspended in the presence of the prince, belongeth vnto the whole princes familie, so long as they waite vpon the prince: for ouer them the ciuil magistrats haue no power, except such magistrats as the prince hath appointed for the executing of the iurisdiction of the court.

Whether a magistrat may forbid a subiect to come vnto the court being as then within the iurisdiction of his territorie?

Yet a man might demaund, Whether the magistrat might forbid a subiect or priuat man to come vnto the court, being within the iurisdiction of his territorie? Which is not without some difficultie: howbeit without entring into farther dispute, I say, that the magistrat banishing the guiltie subiect out of the territorie of his iurisdiction, where the prince may then be, secretly also forbiddeth him to approach the court, albeit that he cannot expressly forbid him to come vnto the princes court. Wherein the rule of *Ulpian* the lawyer taketh place, which saith, *Expressa nocent, non expressa non nocent*, Things expressed hurt, but things not expressed hurt not. And I remember how that it seemed a thing right strange vnto the court, and especially vnto the chauncellours of the household, that the Commissioners deputed by the prince, for the triall of the president *Aluemand* (who familiarly vsed my counsell) hauing by their sentence condemned him, forbad him also to come within ten leagues of the court. Which thing the counsell vnderstanding, decreed, That it was lawfull for no man but the prince only to make any such prohibition. And haply was the chiefe cause that the president (of whose counsell I was) obtained of the king, to haue the iudgement reuerfed. For it were not onely an hard and inhumane thing, to keepe the subiects from hauing accesse vnto the prince, to deliuer vnto him their petitions (as well agreeing with the lawes both of God and nature) but it should also be a thing much preiudiciall vnto the maiestie of a soueraigne prince, as I haue before said. And albeit that the superiour courts of this kingdom haue vsed to banish men out of the realme, and so out of the bounds of their iurisdiction, yet should such their iudgement take none effect, if the king in whose name the courts of Parliament giue iudgement, gaue them not commission so to do, and that his royall commaunds were not vnto such their sentences subscribed: So their decrees also in forme begin in the kings name.

The power of the lesser magistrates to cease in the presence of the greater.

Now as the presence of the Prince holdeth the power of all Magistrats in suspense, so is it also to be deemed of the power of the superiour magistrates or commissioners ouer the inferior. As a man may see in Fraunce, where the Presidents & Councellours,

every

- A** euery one in his iurisdiction, and the Masters of Requestes in all seates of iustice, (except the soueraigne courts) haue power to commaund the Seneschals, Bailiffes, Prouosts, and other inferior magistrates, when they come into their prouinces, and sit in their places of justice, and there may iudge, ordaine, and commaund as superiours vnto their inferiours, and prohibit them to proceed any further, which is generall to all superiour magistrats towards their inferiours, as saith the law: *Iudicium soluitur, vetante eo qui iudicare iusserat, vel qui maius imperium in ea iurisdictione habet*, The iudgement is stayed, he forbidding it which commaunded it, or he which hath greater power in the same iurisdiction. Where the word, *Imperium*, or power, signifieth not onely the power to commaund, or forbid, but euen the magistrat himselfe: As when *Cicero* saith:
- B** *Maius imperium à minori rogari ius non est*, Lawfull it is not, for the greater power to be examined by the lesse; he would say, that the magistrat or commissioner equall or superiour in power, is not bound to answere before his companion, or one lesse then himselfe, which is a Maxime of the auntients, which *Mesala* the Lawyer declareth by example, as thus: *A minore imperio, maius, aut a maiore collega rogari iure non potest: quare neque Consules aut Praetores, Censoribus, neque Censores, Consulibus aut Praetoribus turbant, aut retinent auspicia, at Censores inter se; rursus Praetores Consulibus inter se, & vitiant et obtinent*, The greater power cannot by right be examined by the lesse, or a fellow in office, by an other his fellow officer though greater then himselfe: wherefore neither the Consuls or Pretors trouble, or keepe the south-sayings
- C** from the Censors, neither the Censors from the Consuls or Pretors, but the Censors amongst themselues; and so againe the Pretors and Consuls amongst themselues, do one hinder an other, and so preuaile. And these be the words of *Mesala*, which hee saith himselfe to haue writ out of the xiiij booke of *C. Tuditanus*, but hath failed in that which he saith after: *Praetor etsi Collega Consulis est, neque Praetorem, neque Consulem iure rogare potest*, The Pretor although he be the Consuls companion, can by right examine neither the Pretor nor the Consul, which was happely done by the errour of him that write it: For he should haue said: *Praetor etsi Collega Praetoris est*, The Pretor although he be the Pretors companion, and not, *Consulis*, or the Consuls: except we should salue the matter, in saying that the Consuls, Pretors, and Censors were all
- D** fellowes and companions: *Quia soli iisdem auspicijs, iisdem comitijs, id est maioribus creabantur, ceteri magistratus minoribus auspicijs & comitijs*, for that they alone were created and chosen, by the same diuinations and assemblies, that is to say the greater: whereas the other magistrats were chosen by the lesser, for otherwise the Latins neuer abused the word (*Collega*) in that sence; Besides that the Pretor was neuer the Consuls companion or fellow: but well to the contrarie, appeal might lawfully be made from the Pretor to the Consul. As we read that *Aemilius Lepidus* the Consul receiued a man appealing from the Pretor *Orestes*; and by a contrarie decree reuerfed the Pretors decree. So we read also that *Lutatius* the Consull tooke the triumph from *Valerius* the Pretor, for that he being Consull was the generall of the armie, although he
- E** were that day from the armie wherein the victorie was got. That sheweth also, the power of the Consull to haue beene greater then the Pretors, for that the Consull had twelue Liẽtors, and the Pretors but two in the citie, and fixe at the most if they were sent into the prouinces, whom the Greekes therefore called *ἐξαιπλεῖς*, for so it is by the law *Leẽtoria* prouided, which was made concerning the power of the Pretor of the citie; who was of all other Pretors the greatest: *Praetor Vrbanus duos Liẽtores apud se habeto,isque ad supremum solis occasum ius inter ciues dicito*, The Pretor (or Prouost) of the citie, let him haue with him two Liẽtors, and let him administer iustice amongst the citizens vnto the going downe of the sunne. Wherefore let this stand for good,

not onely fellowes and companions in the same power, but also magistrats of like and equall power, not to haue power to examine one another, and therefore much lesse them which haue greater power than themselves.

Whether a companion or fellow in office may stay the proceedings of his equall or superiour in authority.

Fellowes in office although they haue no power one of them ouer another, yet may they well hinder one another's proceedings, and why?

The Magistrat can do nothing in the presence of his companion equall in power with himselfe without his expresse consent.

But yet question may be, whether a companion or fellow in office, or one of lesser power, or he which is no fellow in office at all, yet hauing power in his owne iurisdiction, may therein stay the acts or proceedings of his equall or superiour in authority? For oftentimes great controversies haue fallen amongst magistrats about such prerogatiues. And the difference is right great betwixt commaundement, and empeachment or opposition: for companions or fellowes in office haue no commaunding power one of them ouer another, and yet neuerthelesse they may in publique actions one of them oppose themselves against another; and so hinder one another's proceedings. As *Piso* the Pretor or judge betwixt straungers and the citizens of Rome, oftentimes troubled *Verres* the Pretor of the citie, sitting in iudgement of causes betwixt citisen and citisen: causing his tribunall seat to be brought nere vnto the tribunall seat of the Pretor of the citie, so to hinder the iust and iniurious decrees of *Verres*; and so administred iustice vnto the citizens flying from the tribunall seat of the citie, vnto him, as by the law they might. And therefore *Cicero* in one of his lawes sayth: *Magistratus nec obedientem, & notium ciuem, multa, verberibus, vinculis coerceto, nisi par maiorue potestas prohibeſſit*, Let the magistrat reſtraine the disobedient and hurtfull citisen, with fine, stripes, and bondes, except an equall or greater power forbid it to be done: neither ſufficeth it to say *prohibeſſit*, or forbid it, for that the magistrat can do nothing in the presence of his companion equall in power with himselfe, without his expresse consent, or else that he submit himselfe vnto his power. As it appeareth in that which *Paulus* the lawyer ſaith: *Apud eum cui par imperium eſt manumitti non poſſe, & Præto-rem apud Præto-rem manumittere non poſſe*, Before him which hath equall power (with himselfe) a man cannot manumize, and a Pretor before another Pretor cannot manumize. Neither doth that ſaying of *Vlpian* contradiſt or impugne the ſame: *Conſulem apud Conſulem manumittere poſſe*, which is, That one of the Conſuls may manumize before the other Conſul: ſeeing that that is to be vnderſtood that he might not doe it vpon the ſame day that hee which did manumize or enfranchise had the bundels of rods and power to commaund; for that they both neuer had power vpon the ſame day, as ſaith *Festus Pompeius*, as is in many places to be ſcene, whether they were at vnitie betwixt themselves or not. And therefore *Linie* ſurnamed the Salter, carried away the triumph from *Claudius Nero* his fellow and companion in the Conſulſhip, for that he commaunded that day wherein the victorie was obtained (as ſaith *Linie*) albeit that the battell were giuen againſt *Hasdruball* by conſent of them both; For *Lucius Caſar* (as *Festus Pompeius* writeth) deemeth him to be called the greater Conſul, which had the bundels of rods or maces; or him which was firſt made Conſul; which *Paulus* himſelfe confirmeth. And all this wiſely, for if both of them ſhould at once haue had the power, nothing could haue beene peaceable, nothing firme or ſure in the great affaires of the Commonweale. Wherefore the Decemviri beeing created at Rome for the reforming of the Commonweale, and making of the lawes of the xij Tables; it was added vnto the law, That they ſhould by turnes haue the maces with the power to commaund. Now if any man aſke the reaſon why a fellow in office may impeach or ſtay his fellow officer in his proceeding, if they both haue authority and power at the ſame time: it is grounded vpon the reaſon generall, of all them which haue any thing in common, wherein he which forbiddeth hath moſt force, and his condition in that caſe is better than his which would proceed on further. Which reaſon prenaileth alſo, when queſtion is of the force & power of laws, wherein the

A the force of the law which forbiddeth, is greater then of that which commaundeth.

But whereas we haue said Magistrats of like power or fellowes in office not to be bound to the power or commaund of their companions or fellowes, that is so true if that they both be in number equall: for in all Corporations and Colledges, they which are in number most, are also superiour in power: and therefore the lesse part of magistrats fellowes in office, cannot forbid the greater. But if all the Magistrats were of one mind and opinion, these words were wont to be written vpon their decrees and edicts, *Pro Collegio*, for the Colledge, (which shall in their place be expounded.) But if it be true that we haue said, why did then *Messala* say? *Consulem ab omnibus magistratibus concione auocare posse, ab eo neminem: deinde Praetorem ab alijs preterquam a Consulibus:*

Magistrats of like power, or fellowes in office, bound to the power or commaund of their fellowes, being in number more.

B *minores magistratus nusquam nec concionem nec comitatum auocasse,* That the Consull might call the assemblie of the people from al the Magistrats, but none might call them from him, and so next after him that the Pretors might call them from all others, excepting from the Consuls: but that the lesser magistrats could no where call away, neither the assemblie nor sessions of the people. Wherof it followeth, that the impeachment & opposition of the lesser magistrats could not in any sort let or hinder the actions or commaunds of the greater. Whereunto I answer, that to call away belongeth to power and commaund, which opposition doth not. Now there is great difference, whether you commaund, or otherwise hinder any thing to be done, as we will hereafter more plainly declare. But first it is to be noted, that that which *Messala* saith is

C true in other magistrats, but not in the Tribunes of the people: whome wee haue showed to haue had the title of magistrats, with power to assemble and call together the common people, and to constraine the Consuls to giue place vnto their opposition, not so much by the power they had to commaund; as by imprisoning of their persons, and seising of their goods: for if they commaunded any thing, and the magistrat refused or reiected their commands, they forthwith for such their contempt, commanded them to be cast in prison: For so *Seruius* the Senator directing his speech vnto the Tribunes, saith, *Vos Tribuni plebis Senatus appellat, ut in tanto discrimine Reipublice Dictatorem dicere Consules pro vestra potestate cogatis, Tribuni pro collegio pronuntiant, placere Consules Senatus dicto audientes esse, aut in vincula se duci iussuros,* The Senat cal-

D leth vpon you the Tribunes of the people, that in so great a daunger of the Commonwealth, you for the power you haue, would compell the Consuls to nominat a Dictator. The Tribunes in the name of the colledge of Tribunes pronounced that their pleasure was, that the Consuls should be obedient vnto the commaund of the Senat: threatening otherwise to commaund them to bee cast into bonds. And it was so farre from being lawfull for the Consuls to haue power to hinder the assemblies of the common people called together by the Tribunes, as that it was not in their power so much as to interpret them in speaking vnto the people, and that vpon paine of death by the law *Icilia*, if he that had so interpreted the Tribune in his oration or speech, paid not the fine or amercement imposed vpon him by the Tribune. As the Tribune

E *Drusus* well caused *Philip* the Consull to vnderstand, whome he made to be cast in prison for interrupting him in his speech vnto the people.

That also which we haue said, the greater part of a companie, or colledge of magistrats to preuaile against the lesser, taketh not place amongst the Tribunes of the people, one of the Tribunes voices being able of it selfe to stay all the proceedings, not of the Senat onely, but of all other the magistrats, yea & of the rest of his fellow Tribunes also: whereas to the contrarie, the acts of one Tribune alone, were of force, except some of his fellowes and companions openly opposed him selfe against the same. As is in *Linie* to be seene, where he saith, The farmers of the publike demaine to haue bene

The opposition of one of the Tribunes of the people, sufficient to hinder the proceedings of all the magistrats in Rome, as also the proceedings of the rest of his fellow Tribunes.

discharged by a decree published vnder the name but of one of the Tribunes only. And that the power of the greater part of the Tribunes might bee withstood by the fewer opposing themselues against them, it is manifest by that, that at such time as *Appius* the Censor by force held his power and Censorship longer than he should haue done, and the time thereof being now expired, contrarie to the law *Aemilia*, *Sempronius* the Tribune of the people in the open assemblie of the people, said vnto him, *Ego te Appi in vincula duci inbebo nisi Aemiliae legi parueris, approbantibus sex Tribunis actionem collega, tres auxilio fuerunt summaque inuidia omnium ordinum solus Censuram gessit*, I will commaund thee, O *Appius* (saith he) to be cast into bonds, except thou obey the law *Aemilia*; and six so of the Tribunes allowing & approving the doing of their companion and fellow Tribunes, three others of them tooke part with *Appius*, and so hee alone held his Censorship, with the great enuie and hart-burning of all sorts of men. So likewise at such time as *Cicero* then Consull (the armie of *Cateline* beeing discomfited and ouerthrowne, by the conduct of *C. Antonius* the other Consull) bare all the sway in the citie, and had turned all the fauour of the people vnto himselfe alone, nine of the Tribunes of the people to restraine such his immoderat power, were all of opinion to send for *Pompey* with his armie; and had so done, had not *Cato* one of the Tribunes of the people alone opposed himselfe in *Ciceroes* behalfe, and so hindered the proceeding of his fellow Tribunes. So when *Scipio Africanus* accused of extortion, was to haue bene cast in prison, he was saued onely by *Sempronius* one of the Tribunes, and father of the *Gracchies*, opposing himselfe against his fellowes.

But how (might some man say) could one Tribune alone let the actions and proceedings of the Senat, of the Consuls, yea and of all his companions and fellowes in office also? Yet most certaine it is that he might so do, if the other Tribunes preferred not a request against him vnto the people, to haue him put out of his office and authoritie. And therefore at the request of *Tiberius Gracchus* the Tribune, *Marcus Octavius* another of the Tribunes, withstanding the profit of the people, and the enacting of the lawes for the diuision of lands, was of necessitie to be thrust out of his office of the Tribuneship, before the law *Sempronia* for the diuision of lands could bee established. And to that end tendeth that speech of the Tribune vnto the Senators, in *Linie*, *Faxo ne inuet vox ista veto, qua collegas nostros tam leti continentes auditis, contemni iam Tribunos plebis, quippe potestas Tribunitia suam ipsa vim frangat intercedendo*, I shall make (saith he) that this word *Veto*, (or, I forbid) which you now so merrie heare our fellowes together singing, shall helpe you nothing, the Tribunes of the people must now needs be contemned, for that the Tribunitial power doth weaken the power of it selfe, by opposing it selfe against it selfe. But this power and opposition of the Tribune, was ordained and provided for the libertie of the people, and against force offered them, and not for the priuat profit of the Tribunes themselues: who if question were of any particular of theirs, whether it were in ciuill or criminall causes, were not in any thing respected, but suffered iudgement, as other men did, if some one or other of their fellowes in office enterposed not themselues, and so letted the proceeding. As when *Lucius Cotta* one of the Tribunes of the people, being sued, would neither answer nor pay his creditors, *Fiducia sacrosancta potestatis*, as bearing himselfe vpon the reputation and credit of the most sacred power of the Tribuneship; his companions in office openly denounced vnto him, That they would aid the creditors against him, except hee made them payment. Yet at length by little and little it was agreed, That the colledge or companie of Tribunes, should be also bound vnto the same lawes and customes that other colledges and companies were, *viz.* That decrees made by the consent of the greater part should bind the rest. As is easly to be gathered of that which *Linie* saith,

A *Ex auctoritate Senatus latum est ad populum, ne quis templum arcemue iniussu Senatus, aut Tribunorum plebis maioris partis dedicaret,* It was by the authoritie of the Senat propounded to the people, That no man without the commaund of the Senat, or of the greater part of the Tribunes of the people, should dedicat a temple or a castie. And afterwards by the law *Attilia* it was ordained, That the Pretor of the citie, and the greater part of the Tribunes of the people, might appoint tutors vnto women and fatherlesse children. Which custome grew into such force, as that the Senat commaunded *Quintus Pompeius Rufus* a Tribune of the people to be cast into prison, for that he being but one, went about to forbid an assemblie of the states to bee called. Whereas otherwise the wilfull rage of one furious Tribune might haue troubled the whole state

B of the Commonweale. And this was the cause why the Consull being about to assemble the great estates of the people, by sound of trumpet caused an edict to bee proclaimed, forbidding all magistrats lesser than himselfe, to haue regard vnto the *Auspicia*, that is to say, vnto the disposition of the ayre, or the flight of birds, for the coniecturing thereby, whether the thing which was then taken in hand, were agreeable with the wil and pleasure of their gods or not. For if it thundered or lightned neuer so little, or if the birds were seene to flie on the right hand, or if any of them there present fell of the falling sicknes, (which was therefore called *Morbus comitialis*) or if any other monster were borne, the assembly was accounted thereby polluted, and so the people presently broke vp and departed without any thing doing: the sooth-sayers thereby denouncing

C vnto them, That the gods were then angrie, and not well pleased with their doings. Which was the charge of the Augures or soothsayers so to denounce vnto them, but yet might not lawfully oppose themselues against that was to be done, as might the magistrats of equall power, or greater: but if the magistrats were inferiour vnto him that held the assembly of the estates, their opposing of themselues could not let the further proceeding of the superior magistrat, howbeit that such acts or proceedings were thereby defectiue, and so subiect to reuocation. In such sort, as that *Caius Figulus* the Consull with his companion, after he had bene chosen, taken his oath, and transported his armie euen into Spaine; yet was he neuertheless with his fellow Consull, by a decree of the Senat, called backe againe home and enforced to giue vp their power and

D authoritie: For that the soothsayers had before declared vnto *Tiberius Gracchus* the Consull (then holding the great assemblies for the choyce of the Consuls) That the signes and tokens whereby they tooke their predictions were vnfortunat and contrary. Wherefore the lesser magistrats could not trouble the assemblies of the greater, or call the people alreadie assembled from them, but such magistrats onely as were equall and of like power with them. But the Tribunes of the people although they might not interrupt the assemblies of the greater magistrats, or call the assembled people from them, yet might they by opposing of themselues hinder their other actions and proceedings: and in case that the magistrats would yet needs proceed contrarie to their oppositions, the Tribunes would then vse plaine force against them; so that oftentimes murders were thereabouts committed. For so *Asellius* the Pretor, or Prouost of the citie, for fauouring the debtors against their creditors, was as he was doing sacrifice slain by a tumultuous company of the creditors, hauing for their leader one of the Tribunes of the people. In like sort *Appius Saturninus* Tribune of the people, slew *Munius* the Consul, in the verie assemblie of the people.

E

And as publike actions are troubled or letted by magistrats equal or greater in power than they by whome they are done, opposing themselues against them: so beeing once done, appeale is to be made from the lesser magistrats vnto the greater, sauing vnto euerie man his iurisdiction and power. Now if it bee not in the lesser magistrats

Appeals to be still made from the lesser magistrats to the greater; and not from the greater to the lesser, or to any other, but equal in authoritie with them.

power to commaund the greater, or to stay his proceedings, much lesse can he vndoe what he hath alreadie done, reuerse his iudgements, or receiue appeales made from him, which are not lawfully to be admitted from the greater magistrats vnto their fellowes or men equall in authoritie with themselves. But euen to the contrarie, if a magistrat deputie or lieutenant be preferred to like estate or degree with the magistrat whose deputie or lieutenant he is, his commission of deputation or lieutenantie ceaseth, and the acts by him begun are interrupted and broken off. Wherefore if the equall or lesser magistrat, shall receiue one appealing from the equall or greater magistrat, an action of iniurie may be commenced against such a magistrat, as also against him who hath so appealed vnto the lesser magistrat, or fellow in office with him from whom he hath appealed. For so *Cesar* as then but Pretor, beeing accused before one of the Questors, as hauing an hand in the conspiracie of *Cateline*, caused both the accuser and the Questor being both grievously fined to bee cast in prison, and especially the Questor, for that he had suffered a greater magistrat than himselfe to be accused before him, as saith *Suetonius*. So the court of Paris by a seueredecree forbad the judges or magistrats of them which haue territoriall iurisdiction, to bind the kings magistrats or judges with their edicts or prohibitions: and that if they did otherwise, the kings magistrats or judges might by way of iustice proceed against them for so doing.

Whether the inferior magistrat which may be commaunded by the superior, may also be commaunded by the superior magistrat Lieutenant or deputie.

But here a man might doubt, Whether the inferior or lesser magistrat, who may be commaunded by the superior, may also be commaunded by the superior magistrats lieutenant, or deputie? Which most haue thought to be a thing without doubt, considering that the lieutenants, or deputies, command nothing in their owne names, neither can do any thing but in the name of the magistrat whose place they hold, and vnto whome the inferior magistrat oweth obedience. For otherwise if it were lawfull for the inferior magistrats to disobey the lieutenants or deputies of their superiours, other particular men by the same reason might likewise withstand them, which were the way to ruinate & ouerthrow the whole estate of the Commonweal. Howbeit that it might also be said, that magistrats lieutenants erected in title of office haue power and authoritie by the law, and so also power to commaund in their owne names, and in that qualitie to constrain the inferior magistrats to obey them. Yet neuerthelesse I say, that in that they are lieutenants or deputies vnto other the superior magistrats, they cannot commaund or giue out commission in their owne names; which if they do, the inferior magistrats are not bound to obey them: As was adiudged by a decree of the parliament of Paris, at the suit of the Seneschal of Touraine against his lieutenant, who published edicts and decrees in his owne name, which should haue bene set forth in the name of the Seneschall himselfe. Which was a thing without all doubt before the edict of king *Charles* the seventh, that the lieutenants should bee placed and displaced by the Seneschals: but the doubt arose after that they were by him erected in title of office, as hauing then their power from the king, and not from the Seneschals. But we must not thereupon presume, that the purpose and intent of the king therein, was to take away the power from the Seneschals or Bailifes (which could not be done but by an expresse edict for the suppressing of those offices) but contrariwise the erection of their lieutenants in the title of lieutenants, was much more to establish the honour of the Seneschals and Bailifes, and yet so to diminish their power. As first the Senators at Rome, and after that the emperours themselves, were woont to appoint lieutenants vnto the Proconsuls (or gouernours of their prouinces) who yet for all that had not their power to commaund from the Senat or the emperour, but from the Proconsuls or gouernours themselves. Wherefore the law saith, *Apud legatum Proconsul non est legis actio*, that is to say, that he might do no exploit or act of iustice, but

- A** but in the name of another man : not for that it was not lawfull for the Proconsuls lieutenants, as it was for the lieutenants of al other magistrats to manumise or enfranchise within the precinct and territorie of the prouince of those magistrats whose lieutenants they were . Which the doctour *Cuias* hath denied, and in the auncient reading corrected these words, *Ex quo prouinciam ingressus est*: Which his correction if it were to be admitted, thereof should follow diuers inuitable absurdities, these words (as hee would haue them) being left out: for so the lieutenants could not in the territorie of their magistrats, ordaine, decree, commaund, or do any thing; which is all that the law properly calleth *Legis actiones*, or the actions of the law; all which we read lieutenants to haue still done in their owne prouinces: and yet neuerthelesse the Maires, and Durmuirs, or Consuls of villages & townes, had power to manumise or enfranchise, and to appoint tutors by commission within their owne iurisdiction. Wherefore the execution or action of the law, is not in the magistrats lieutenants or deputies, but in the which so appointed the lieutenants or deputies. Yea the magistrat himselfe, who doth but exercise another mans iurisdiction, can in his owne name commaund nothing. Whereof it commeth, that a man cannot appeale from a lieutenant or deputie, vnto him whose lieutenant or deputie he is: for so appeale should be made from the same man to himselfe. Howbeit that the magistrat may examine the iniurie and wrong done to priuat men by his lieutenant or deputie; and that because the lieutenant or deputy hath not all the iurisdiction and power of the magistrat, whose lieutenant or deputie hee is:
- C** and yet lesse in auncient time, than at this present, when as the lieutenants of the Proconsuls or gouernours of countries, had no power to inflict corporall punishment vpon any. The princes lieutenants generall also in the wars, albeit that they haue a most high commaund and power ouer all souldiours, of what degree or condition soeuer, yet if any of the princes of the blood offend against the lawes militarie, the hearing and triall thereof belongeth not vnto the lieutenants generall, but vnto the soueraigne prince himselfe; or at leastwise vnto the chapter of the knights of the order, especially in case it concerne either honour, or life. And in much more strong tearmes, if question be of ecclesiasticall discipline, onely the bishops are not bound to answer before the archbishops officials, or vicars generall; as it was by a decree of the parliament of Paris, adiudged for the bishops of Troy, and Neuers: Whereby it was said, that they were not bound to obey, but onely vnto the archbishops in person themselues. But that which I haue said of the power of the superiour magistrats ouer the inferiour, is to be vnderstood in their owne territorie, seat, and iurisdiction, out of which they are but as other priuat and particular men, without power or commaund.
- D** But now the question might be asked, Whether that magistrats equall and fellows in authoritie and power, be also equall in honour and dignitie? Whereunto I answered, that honor and dignitie doth in nothing communicat with authoritie and power: yea oftentimes it chaunceth and commeth to passe, that hee which hath most honour, hath so much the lesse power: than which secret none is almost greater, or more profitable for the maintenance & preferuation of the Aristocraticall or Popular Commonweales, or that is in any place of the world better kept than in Venice. Of the Consuls he that was first chosen Consull, was also first named in all their publike acts and fastes, and so had the honour of precedence: but if they were both at once chosen, he that was the elder was in honour also aboue his fellow, vntill the law Pappia Poppeia, which gaue the prerogatiue of honour vnto the married Consull: or if they were both married, then vnto him that had most children, which supplied the number of yeares. So amongst the Pretors, who were all of one colledge or companie, and their power all one; he which was called *Urbanus* (or the Pretor of the cite) was in dignitie

The power of the superior magistrats ouer the inferior, extendeth not farther than their owne territorie seat and iurisdiction.

Honour and dignitie in nothing to communicate with authoritie and power.

and honour about the rest, and so called the Greatest Pretor, for that he was first of all chosen, and in the absence of the Consuls held their places, assembled the Senat, and called together the greatest estates, with such other like things belonging to the office of the Consuls. And amongst the ten Archontes of equall power in Athens, there was one, who yet in honour exceeding the rest, had the publike acts authoris'd in his name, and gaue himselfe names also vnto the Annales and publike acts and decrees, and was thereof called ἀρχων ἐπὶ νόμων. So amongst all the parliaments of Fraunce (beeing almost all of like power) the parliament of Paris hath the prerogative of honour about the rest, as more auintient; and by a certaine singular right is yet called the Court of the peeres of Fraunce, as hauing the triall and iudgement of the peeres, which none of the rest of the courts of parliament haue. And albeit that in the time of *Charles* the viij, the great Councell mannaged the affaires of state, yet so it is, that the king by expresse edict ordained and appointed, That in all edicts and mandats, wherein mention should bee made of the court of parliament, and of the great Councell, the Court of parliament of Paris should alwayes be set formost. So whereas the kings Attourneies are almost in number infinit, he of the parliament of Paris hath alwaies the prerogative of honour about all the rest of the kings Attourneies, who all are sworne vnto the iudges of the soueraigne courts (wherein they are Attourneies) except the Attourney generall of the Parliament of Paris, who is not to bee sworne but vnto the king onely. So wee see that the Constable of Fraunce, and the Chauncelor, albeit that they haue not power or commaund one of them about the other, but are equall in sitting, and in going side by side, yet neuerthelesse the more honourable place is reserved vnto the Constable, which is on the right hand of the king, and the Chauncellor on the left: except some haply may say him to haue that place for to beare the kings sword vpon the kings right hand: yet besides that, at the consecration and coronation of the king, and other ceremonies wherein place of precedence is, the Constable goeth before the Chauncellour, and next vnto the Chauncellour followeth the Grand Maister of Fraunce. Which I would haue vnderstood to be of me so spoken, not as if my purpose were to determine any thing of honours, but as an example by the way whereby to perceiue how much honour differeth from authoritie or power.

But forasmuch as we haue said, that magistrats equall in power, or which hold nothing one of them another, cannot be commaunded one of them by another; a man may doubt whether if amongst many princes or coequall lords, one offend, hee may be restrayned or corrected by the other princes or lords his equals? For why, iurisdiction is of it selfe by nature indiuisible: and lords of one and the same iurisdiction haue one of them as much power as the other; and euerie one of them hath entire power for all: which is not so amongst princes or magistrats which haue their charges or territories diuided, and which haue not any thing to commaund one of them the other; and much lesse when many magistrats in one bodie or colledge haue one and the same charge together; where no one of them hath of himselfe any power or commaund, except it be by commission from the whole colledge giuen him. Yet many there be which hold, that one of these lords may be restrained and corrected by the other lords his compeers and coequals, as hauing by his fault lost his iurisdiction and right, as it hath bene iudged in the court at Rome. Which iudgement may well be borne with, howbeit that the reason thereof is not good; for to say that hee offending hath thereby forthwith lost his power and iurisdiction, were to do execution before iudgement, and to spoile the lord or magistrat of his estate or place before he were heard. And albeit that the threats, penalties, edicts, and decrees, expresse and set down in the lawes, had the force of a thing already iudged, as some haue thought them to

haue;

Whether equall
lords or copeeres
of the same terris
torie and iurisdic
tion, may cha
stise or reforme
one another.

- A** haue: yet so it is, that the fact in question is alwaies in iudgement to be tried, whether it were done or no; and in case it be confessed, yet before the execution, must the sentence be pronounced by the mouth of the judge, who can haue no power ouer his compeere, who hath equall power and authoritie in the same territorie with himselfe, as we haue before declared, following therein the sounder opinion of the greater part of lawyers, not much regarding that others say, That euery man is there to be iudged where he hath offended: which is so true, if there be no lawful cause which may hinder iudgement to be in the same place giuen. In a colledge or companie of magistrats, or judges, if the greater part of them agree in one, there is no doubt but that they may iudge or chastice any one, or the lesser part of their fellowes: as they did in the Senat of
- B** Rome, after the law which *Adrian* the emperour made for the iudging of Senators; and as they doe in all the courts of this realme. But betweene many equall lords or compeers of the same territorie, the reason is farre otherwise; for that euery one of them hath himselfe the whole iurisdiction and power, nor cannot iudge but by turnes, one of them after another, neither haue more than one seat of iustice, in one and the same iurisdiction, but by the new grant of their patron or predominant lord. And in this, seruice differeth from iurisdiction; for that seruice suffereth it selfe to be at once & together enioyed of euery one that hath right thereunto; but iurisdiction not so, as many haue thought, hauing excepted dutchies, marquissats, and counties; which by the auntient lawes of fees are of an indiuisible nature. But it is neither for vs needfull, neither doth this place require vs by reasons to refute the opinion of them which affirme iurdictions so to cleaue vnto the territories, as if they were indeed seruices; least in so doing we should passe without the bounds of our purpose. Sufficeth it in passing by, to say, Iurisdiction to hold so little of fee, as that the soueraigne prince selling or giuing a fee, of what nature soeuer it be, is not therefore to be reputed to haue giuen or sold the iurisdiction thereto belonging; as it hath oftentimes bene iudged, & at length because it should no more be doubted of, was by an edict of *Philip* the faire more straitly provided for: yea although the donation were by the soueraigne prince made to religious or deuout vses; which many (but without cause) haue excepted, the law being made generall. Seeing therefore that magistrats in power equall, or which hold not any
- D** thing one of them of another, cannot be commaunded or corrected one of them by another; much lesse can the equall lords or compeers of the same territorie and iurisdiction commaund or reforme one another, but the superiour magistrat or predominant lord is to haue the hearing and determining of the matter. By our customes the superiour courts haue reserued vnto themselves, the controuersies of the kings magistrats and officers amongst themselves, concerning their power and iurisdiction. But if question be for the executing of the decrees or iudgements of one of them in the territorie of another, it is to be done by honest request and leaue before obtained: howbeit that by a new law, that custome is taken away out of this our Commonweale, and power giuen vnto pursuants to put in execution all the magistrats commaunds,
- E** almost throughout all the kingdome. As for soueraigne princes, not subiect to the power or commaund of others, they must in such case, of necessitie vse requests one to another, for that they cannot be compelled by the command of any greater power, as magistrats may, who without any leaue asked, suffer the iudgements of other magistrats to be put into execution in their prouinces: or in case they refuse so to doe, are to be constrained by the superior powers. Which asking of leaue of the greater or equall power to execute or suffer iudgement giuen out of their territories, to bee executed therein, offering to do or suffer the like to be done in theirs, as occasion shall require, hath of all antiquitie bene obserued and kept. Howbeit it seemeth the Roman empire

In a colledge or companie of magistrats or judges the greater part agreeing in one, may iudge or chastice any one or the lesser part of their fellowes. A difference betwixt seruice and iurisdiction.

yet flourishing, that to put in execution a mandat or iudgement out of ones owne territorie, it was needfull first to obtaine the Emperours letters of commaund, seeing that the law saith, *Sententiam Romæ dictam, possunt Præsides in prouincijs, si hoc iussu fuerint exequi*, The Presidents in their prouinces may put in execution a sentence (or iudgement) giuen at Rome, if they be thereunto commaunded: yet much more seemely it were by the good leaue of the magistrat to obtaine the same, than by force to extort it against his will. As in like cause the Emperour said vnto him which complayned of his companion, without hauing before spoken vnto him, *Alloquere illum, ne rem iniustam faciat*, Speake vnto him, that he do thee not wrong: forasmuch as the princes commaund, or constraint of the superiours in such case, giueth occasions of quatrels and ieaiousies amongst Magistrats, seeing the decrees of their equals, or of their inferiours, against their wils to be put in execution in their owne territories: which oft times turne to the great hurt of the subiects, and dishonour of the Commonweale, one of the magistrats, or of such as are in authoritie, in despite of the other discharging their cholerique passions vpon the poore innocents: As did the Consul *Marcellus*, who in despite of *Cæsar* caused certeine of the citisens of Nouocome to be whipped, to make them to know (as he said) that *Cæsar* had no power to giue vnto them the right and freedome of the citisens of Rome. But much greater is the poore subiects harmes if such contention and difference for power and authoritie, fall out amongst the greatest magistrats, or highest Courts. As I remember such a difference fell out betwixt the parliament of Paris, and of Burdeaux, about the execution of an arrest giuen in the parliament of Paris; which the parliament of Burdeaux vpon the princes commaund suffered to be executed within the iurisdiction thereof, but with condition, that if any opposition or appeale were in the doing thereof made, the parliament of Burdeaux should haue the hearing and disciding thereof. He which had the execution of the matter, willing to proceed farther, notwithstanding the opposition of the defendant; appeal was by the partie made vnto the parliament of Bourdeaux, whom the plaintife preuented in the parliament of Paris. This contention betwixt the two parliaments was by the king referred vnto the great Counsel; where it was decreed, That to receiue and heare the appeale belonged vnto the parliament of Paris; for that euery man ought of right to be the interpreter and expounder of his owne meaning: and as none but the prince may declare his lawes and commaundements, so it belongeth to the magistrat to declare the meaning of his owne sentence. Now here question was of the right meaning of a thing already iudged, at such time as the partie guiltie offered his opposition vnto the officer, putting into execution the decrees of the higher Court, from which a man may not by the lawes appeale: vnto which opposition of the partie guiltie, if the officer giue not way, then it is vsuall to appeale, not so much from the sentence of the higher Court, as from the iniurie of the officer which would not heare the opposition, which he must needs, except the Court haue commaunded the iudgement thereof to be put in execution, notwithstanding any opposition.

But what if the Magistrat shall haue no respect or regard vnto the requestes or decrees of his equall, or of the inferiour magistrat, nor suffer their commaundements to be put in execution within his iurisdiction. Truly in this case he is to be thereunto by the superiour magistrats compelled: or if they be of the higher sort of magistrats which are at controuersie among themselues about their iurisdiction and power, they are by the princes authoritie to be enforced: for so these wordes of *Vlpian* the Lawier are to be vnderstood, *Si hoc iussu fuerint*, If they shall be so commaunded: *viç.* by the prince, (but not by the magistrats) at such time as the Presidents or gouernours of countries, euery one of them in his own prouince had the chiefe power and authoritie next vnto the

Contention betwixt great magistrats or courts, about their power and iurisdiction, alwaies vnto the poore subiect hurtfull.

Willful magistrats by the prince or their superiours to be enforced to suffer iustice to be done within their iurisdiction

A the Prince, by whom onely they were to be commaunded. And whereas in the Edicts or lawes any thing is commaunded to be done, it is thus to be vnderstood, that euery Magistrat in his owne prouince is to be obeyed, for that the magistrat hath no power to commaund out of his owne territorie or iurisdiction. In auncient time the kings Pursuiuants or officers, if they were to put in execution the commaunds of the royall magistrats in the territorie of such lords as had therein tetritoriall iurisdiction, were first to aske them leaue; vntill that afterwards it was by the most strait decrees of the highest courts forbidden them so to doe, for that therein the soueraigne maiestie of the king seemed to be something empaired.

But yet it might be demaunded, whether the inferiour Magistrats might cause their
B commaunds to be put in execution, without the leaue of the superiour magistrat, vnto whom appeale was made: and that after the same appeale let fall, and the time past, appointed for the prosecuting thereof; which the Lawiers to no purpose call *Fatalia*, enduced thereunto by an old errour and inueterat fault of them which haue translated the Code, and authentiques out of Greeke into Latin, wherein for *κρίας ἡμέρας*, they haue red *κρίας ἡμέρας*, which is to say, fatall daies, for daies prefixed and of assignation: which the law of the twelue Tables called *Status dies*, daies appointed; as in this law, *Si status dies cum hoste*, that is to say, If the day appointed with a straunger. Neither euer did lawier or man that could speak Latin, vse this forme of speaking, neither hath any of the Latins or Greeks called them for *κρίας ἡμέρας κρίας* or *Fatales*.

C The Lawiers haue oftentimes diuided *Dies sessionum*, a *diebus continuis*, Daies of Session, from daies of Continuation. And if any thing were by the magistrat commaunded to be done within a certaine time, the Lawiers called it *Statutum tempus*, and *edictum peremptorium*, a time appointed, or edict peremptorie: but when the time wherein the sute ought to be determined is expired and past, or that the sute is let fall, we say, *Litem mori*, the sute to die; or *instantiam perimi*, the instance to be lost: as before, we say, *Litem viuere*, or, the suit to liue: but none of the Lawiers hath vsurped *Fatalem diem*, or *Fatalia tempora*, a fatall day, or fatall times. But all this errour is deriued of the chaunging of this one Greeke letter *υ*. into *η*, for seeing that by the word *κρίη*, or *κρη*, the Greeks aswell as the Hebrewes signifie *Fatum*, or destinie, they must

D needes translate *κρίαν ἡμέραν*, *fatalem diem*, that is to say, a fatall day: *Demosthenes* oft times calleth it *κρίαν ἡμέραν*, which the Latins call *statum diem*; and we in our practise, *prefixam*, that is to say, an appointed, or prefixed day: for so *Demosthenes* saith against *Medias*, ἐπειδὴ ἡ κρίαν ἡμέραν τὸ νόμον, & against *Stephanus*, κρίαν ἐγγράφαι: and sometimes also he saith, ἡμέραν διαμετρημένην, as to *Nicostratus*: and the later Greeks haue called it ἡμέραν ἐμπρόθεσμον, & ὁρισμένην, but neuer called it κρίαν. And so pope *Synesius* metaphorically calleth the last day of a mans life κρίαν, because he would not call it κρίαν, or *Fatall*; a word vnto Christian men and true religion straunge. Wherefore for *Fatall* daies of appeales, we shall more truely and better vse the tearmes of Appointed times, for so the lawyer calleth them. But that *Iustinians*

E lawes were written in Greeke before they were written in Latin, I suppose no man to doubt. And that the *Theodosian* and *Hermogenian* Codes, out of whome *Iustinians* Code was almost all compiled, were as well written in Greek as in Latin, it is plaine: and so the law *Properandum* to haue beene translated rather by a Greeke than by a Latinist, being altogether writ in the Greeke phrase, as namely calling the defendant *fugientem*, or the partie flying away; which is the proper Greeke word *φευγοντα*. Neither ought it to seeme straunge, that the Greekes translated the Roman lawes, and euen *Iustinians* Institutions into Greeke; seeing them to haue translated most of the writings of *Thomas Aquinas*, as also the later bookes of *Aristotles* *Metaphisikes* out of Ara-

Whether the inferiour Magistrat be to haue leaue from the superiour, vnto whom appeale was made, to put his owne sentence in execution, the appeale being now let fall.

The errour of the word *Fatalia*.

bike into Greeke, the Greeke copie being before lost. But to returne againe from F
whence we haue digressed, and to resolue the propounded question; I say, that it is not
needfull for the inferiour magistrat, the appeale being let fall, to haue leaue of the supe-
riour magistrat (vnto whome the appeale was made) for the putting in execution of
their owne iudgements: as in the time of our auncestors, the manner was, by letters of
iustice (as they tearmed them) which by a decree of *Charles* the seuenth, were vterly
abolished and taken away: sufficeth it the appeale being once giuen ouer before the
judge that gaue the sentence, to request, that the same may now be put in execution, ex-
cept the superiour magistrat vnto whome the partie condemned hath appealed, hath
expresly before forbid the execution to be done. In which case it is needfull, that such
prohibitiō be taken away, before the inferior magistrat proceed further. For otherwise G
it is not requisit, that the appeale should by the superiour magistrat be declared to be let
fall or giuen ouer, that the sentence may be put in execution; for that the benefit of the
appeale let fall, is obtained by the law, & not by vertue of the magistrats sentence. Nei-
ther is the honour or reputation of the superiour magistrats impaired by the inferiours,
not hauing from them expresse prohibition: in reuerence & respect of whom, the infe-
riour magistrats ought to stay the execution, if the stay thereof bee not perilous vnto
the Commonweale. In which case they may proceed, although it were in question
of life, and afterwards write back their aunswere; whereas otherwise, in causes concer-
ning life and death, if the magistrat giue not way vnto the appeale, he himselfe is in dan-
ger of capitall punishment. Yea and in this case, the magistrat for not yeelding vnto the H
appeale, is guiltie of treason, albeit that question were but concerning the whipping
of a citisen.

Now all that which we haue hitherto said concerning magistrats, and of the obedi-
ence that one of them oweth vnto another, is to be vnderstood of magistrats that be of
the selfe same Commonweale. But what shal we then say of magistrats of diuers Com-
monweales? As if a man by the magistrats condemned in this kingdome shall flie into
Greece, whether shall the Grand Signior of the Turkes, at the request of the French
king, or of some other priuat man whome the matter doth concerne, cause the iudge-
ment to be put in execution, without further enquire of the equitie of the cause? The I
like question whereunto I remember to haue hapned in the parliament of Paris, con-
cerning a French marchant condemned by default and contumacie at Venice, at the
suit of a Venetian marchant; who came into Fraunce to demaund execution of the
iudgement giuen in Venice, hauing before obtained letters of request frō the seigneurie
to that purpose, as the vsuall manner & custome of soueraigne princes & lords in such
cases is: For a mutual respect and care which all princes haue vnto iustice, wherof they
hold their Scepters and Crownes. The French marchant excepteth against the Vene-
tian, and no regard being had to his exception, appealeth vnto the court of parlia-
ment. Where most were of opinion, that the sentence so giuen was to bee put in exe-
cution, without any farther examination, whether it were rightfully iudged or not: K
which otherwise might seeme a wrong offered vnto the Seigneurie of Venice, which
might vse the like circumstāce, & examine the iudgements of the magistrats of France,
and also reuerse them, rather in reuenge of their wronged maiestie, than for the iniqui-
tie of the same. Yet for that the marchant was condemned by default, it was thought
meet to haue it enquired, whether he had by couenant in this point submitted himselfe
vnto the Venetian Seigneurie and iurisdiction or not? And then, whether the iudge-
ment were duely giuen, after certaine peremptorie edicts and appointed times, accor-
ding to the laws and customs of the Venetians? Which being found to be so, the court
adiudged the sentence to be put in executiō. And this is the course in priuat iudgements.

How.

- A** Howbeit if question were of the honour, or life, not of one of our owne subiects only, but euen of a straunger flying vnto vs, the iudgement of a straunge magistrat is not to be put in execution, before the truth of the matter be againe of fresh and thoroughly examined and tried. Yea *Adrian* the emperour commaunded the gouernours of his prouinces, to vse *ἐκδίκησις* (for that word the law useth) that is to say, to iudge againe of them which had beene condemned, by the iustices of peace euen of the same Roman empire. And that which I haue said, is right straitly obserued and kept in the Commonweales of the Swislers, of Geucue, of Venice, Lucque, and Genes, who cause the condemned straungers flying vnto them, to be againe of new tried, before they restore them vnto forrein princes, demaunding from them such their condemned subiects againe.
- B** For so all lawiers almost with one consent say; Soueraigne Princes not to be bound to restore Straungers flying vnto them, vnto their owne Princes demaunding them againe. Which is true that they are not bound in any ciuill obligation, from which all soueraigne princes are exempted: but they without any distinction of the Law of nations or nature, altogether denie that a forrein subiect is to be restored vnto his prince requiring him againe. Onely *Baldus* addeth this condition therunto, Not to restore him to be right, so that the prince vnto whom the condemned or guiltie person is so fled, do vpon him iustice. But if they will confesse euery Prince by the lawes both of God and nature to be bound to doe iustice; they must also confesse that he is bound to restore another mans subiect vnto his owne natural prince, demanding him: not onely for the more manifest trying out of the truth, and discovering of the conspirators their partakers, for which their personall presence and confrontation is most necessaric; but also for exemplarie punishment to be done, in the same places where the offences were committed: which of all other things seemeth most to belong vnto the profit to arise vnto the Commonweale by punishments, as examples of common reuenge, the death of the offender, being one of the least thing that in matter of iustice is to be sought after. And if Magistrats in the same Commonweale are by mutuall obligation bound to helpe one an other, and so the Commonwealth, (whereunto next vnto God we owe all our endeouours) for the prosecuting and punishing of malefactors and offenders; why then should Princes be exempted from the like bond, so well agreeing with the lawes both of God and nature?
- D** Wherein the notable act of *Mahomet* (the second of that name) emperour of Constantinople, euen he which was surnamed the Great, is right worthily commended; in that he caused the murtherer, who had most cruelly slaine *Iulian de Medices* in the Church before the Aulzar, to be apprehended at Constantinople whether he was fled, and so bound hand and foote, to be restored to *Laurence de Medices* and the state of Florence, requesting of him: which he did not as respecting the power of the Florentines, being then but small, but as fearing the hand and power of the immortall and almightie God. And in this Realme the custome hath alwaies beene to restore the guiltie fugitiues vnto their owne Lords and Princes demaunding of them, except therein question be made of the maiestie, boundes, or state of the kingdome, which hath beene by their decrees determined. One of the parliament of Paris: Another of the court of Rome against the king of England, who demaunding his fugitiue subiect, was denyed him: And the third of the parliament of Tholouse: that of Rome being then grounded vpon the soueraigntie of the See of Rome ouer the realme of England. But out of tearmes of estate, and where question is but of publique punishment, there is no Prince which is not bound to restore another mans subiect vnto his Prince demaunding him, as hath beene solemnly iudged by the parliament of Bourdeaux: howbeit that the same hath beene also expressly articulated in diuers treaties of peace. As in the treatie which
- E**

Whether soueraigne princes be bound to restore straungers flying vnto them, vnto their owne princes demaunding them againe.

A notable act of Mahomet the Great, first emperour of the Turkes.

the Swissers made with the emperour *Charles* the fift, as Duke of Millan, the vij article caried an expresse clause, for the restoring of guiltie fugitiues. And for this cause king *Henry* the second, after he had by his Embassadour requested the Lords and people of Geneua, to restore vnto him *Baptista Didato* an Italian, his Receiuer generall of Roan, who was thither fled with all the money of the receipt: which they being there-to oftentimes requested, refused to doe: At length the king protested vnto the Lords of Berne, in whose protection the Seignorie of Geneua then was, that he would vse the law of Reprisall against them of Geneua; who before had resolved in their grand Councell of two hundred, in no wise to restore him: but afterwards being by an Herald sent from them of Berne, willed to deliuer him vnto the king, they chaunged that their former opinion for the detaining of him; So at length the robber of the cōmon treasure was forsaken by them of Geneua, lest they in doing otherwise should haue stirred vp the displeasure of a most mighty king, or of the Swissers against them, as also seeme to haue opened a sanctuarie or place of refuge for theeuers, and other such like wicked men. And this we haue gathered out of the letters of the French embassador to *Anne Mommorancie* Constable of Fraunce, so that they are to be blamed which otherwise either thinke or write. Wherefore I hold it to be an iniurie vnto the estate of another man, to detaine a guiltie fugitiue after he is demaunded to be againe vnto his owne prince restored; and much more if he should be so detained by the subiects among themselues. For which cause all the Tribes of Israel combined themselues against the Tribe of Benjamin, which was so vterly destroyed, except sixe hundred persons, for refusing to restore the guiltie persons demaunded of them. And for the same cause we find that the Hippotæ were all destroyed, and their citie vterlie razed by the Thebans; for that they chose rather to defend the murderers of *Phox* the Bæotian, and for them to take vp armes, then to restore them vnto the Thebans, demaunding them. But if the Prince vnto whom the fugitiue is retired certainly know him whom he hath so receiued, to be an innocent and guiltles man, and to be vniustly pursued and sought after, as hauing but escaped the crueltie of a tyrant, it is not onely a shamefull and iniurious thing to betray the poore innocent and straunge man vnto the cruell tyrant: but he should rather for the miserable mans defence, and safegard of his life take vp armes, seeing that by the law of God, we ought not to restore a fugitiue seruant vnto his angry master, from whose furie he is fled into anothers mans house.

And thus much concerning Magistrats; and the obedience that they owe vnto Princes, and of the power that they haue ouer particular men, and of the respect that they ought to haue one of them towards an other. But to compare the Magistrats of auintient time, with ours now, belongeth not to this our purpose, considering that they are still in chaunge, howbeit that wee see them to be like in effect, although that they differ in names. As we read in the booke of the kings, where it is said, That *Azarias* the sonne of the high priest *Tsadoc* was neere vnto the person of *Salomon* to instruct him in matters concerning Religion; that *Iosophat* was chiefe of his councell, or his Chancellour; thar *Eliphore*, and *Aiah* were his Secretaries for the estate; that *Banaia* was his Constable; and *Azarias* the sonne of *Natan* his Lieutenant generall ouer the gouernments of the twelue Tribes, which are and haue beene as it were like in all Monarchies. So in like maner we see in the Turkish Empire, that the first and principall *Bassa* is Generall of the armie, as Constable or chiefe Mareeschall; and Beglerbegs are gouernours generall of Prouinces; the Zanzacks are as more particular and inferiour gouernours; the two Cadilequires are the Chancelours, attendinding vnto the administration of justice, the one in Asia, the other in Europe; the Sabbalsacs and Cadies are the ordinarie magistrats and judges; the Mophri is the great Bishop. So in the kingdomes

A guiltie fugitiue is not by another prince to be detained, but restored after he is by his owne prince demaunded.

1. Iudic. 20. cap.

A guiltles and innocent fugitiue, is not to be restored vnto his angry prince demaunding of him.

Gen. 16. et 23.

A kingdomes of Thunes, of Fes, and of Maroch, the Munafide is as Chauncelour, the Admirall is Generall of the armie at Sea, a word or name which we haue borowed from the Arabians. So we see the charges and offices to be as it were like, although their names be diuers, as the Great Master of Ethiopia is called Bethudere, which is an Hebrew word, signifying Master of the household. But forasmuch as Magistrats in euery Commonweale are diuided into Corporations and Colledges, and that there are more Corporations and Colledges of priuat men than of Magistrats, let vs also say somewhat of such Corporations and Colledges.

CAAP. VII.

B ¶ *Of Corporations, and Colledges, Estates, and Communities, and what profits or inconueniences ensue thereof vnto the Commonweale.*



C Ow after that we haue spoken of a Familie, and of the parts thereof, of Soueraigntie, and of Magistrats; we must speake of Corporations and Colledges also: wherefore let vs then first speake of the cause of Corporations and Colledges, and after of their power and priuileges in generall, and of the maner of punishing of them, if they offend: and last of all whether the Commonweale can be without them. The difference of a Familie, from Corporations and Colledges, and so of them from a Commonweale, is such as is the difference of the parts from the whole: for the communite of many heads of a familie, or of a village, or of a towne, or of a countrie, may be without a Commonweale, as well as a familie without a colledge. And, as many families by amitie alyed, are members of one corporation and communite; so many corporations and communities allyed by a soueraigne power, make one Commonweale. Now a familie is a communite naturall; a colledge is a communite ciuill; and a Commonweale hath that moreouer, That it is a communite gouerned by a soueraigne power, and may be so strait, as that it may haue neither corporation nor colledges, but onely many families in it. And so the word Communite is common vnto a familie, a colledge, and a commonweale. And properly a Corporation is vnderstood to consist of diuers families, or colledges, or of many families and colledges together. But the beginnings of all ciuill societies are deriued from a familie, which is (as we say) it selfe a naturall societie, and by the father of nature it selfe first founded in the beginning together with mankind. But when reason, by God himselfe ingrafted in vs, had made man desirous of the companie and societie of man, and to participate together both in speech and conuersation; the same so wrought, as that proceeding farther from the loue of them that were domesticall & their owne, it extended farther, to take pleasure in the propagation and encrease of families. So also families by little and little departing from their first beginning, learned by ciuill societie to imitate the naturall societie of a familie. For why, a Commonweale is a ciuill societie, which can of it selfe stand without corporations or colleges; but not without a familie: besides that, Commonweales may be dissolued, for that they are deriued from the Lawes and institutions of men: whereas families cannot altogether perish, but that all mankind must before perish also. Whereby it is to be vnderstood, From the roote of one familie, by the enetliuing God himselfe planted, at the first to haue sprung vp as it were certeine plants, who by necessitie constrained, built for themselves houses and dwelling places, so to be the safer from the iniurie of the weather, and the rage of wilde beasts: and after that Hamlets and villages, which in proceesse of time became Borroughes and

The difference betwixt a familie, a colledge, and a Commonweale.

A Familie the beginning of all ciuill societies.

Townes. But being growne to such a multitude, as that they could not longer be contained within the compasse and precinct of the same countrie, they were driuen to depart thence also, and to seeke out new dwelling places. So that now thus diuided in places, in regions, and kinred, being bound vnto no law or commaund, as euery one of them exceeded the other in strength and power, so he forced himself to thrust them that were neere vnto him, and weaker than himselfe, out of their houses and dwelling places; or to take from them their springs, their fountaines, or pleasant places; or to drue them from their pastures or feedings: which violence so offered by the stronger, enforced the weaker either to seeke out places by nature defensible and strong, or else by art or wisdom to fortifie themselves, their children, wiues, and families, with ditches, trenches, and walles, whereof strong townes and cities arise. For so *Dionysius* long since writeth king *Seruius* to haue placed certeine places of refuge in the mountaines & strongest hilles, whether the poore countie men might retire themselves out of the fields, so to saue themselves from the incursions of their enemies. And yet could not the enemies force be so kept off with walles and other fortifications, but that they which had so shut vp themselves therein, were yet neuerthelesse besieged by the stronger. For why, the first sort of men was most giuen to rapine, murder, and theft, delighting in nothing more, nor accounting any honour greater than to robbe and kill, and to oppresse the weaker sort as slaues: as *Plutarch* well agreeing with the sacred historie most truely writeth. And long before *Plutarch*, *Thucydides* the most famous historiographer of them that florished among the Greekes reporteth, all Greece but a little before his time to haue bene troubled with the robberies and outrages committed by the mightier sort; and then robberie & theft to haue bene no disgrace or shame. Yea such as traueiled by Sea or land (as the same authour reporteth) when they met, before they came neere together, vsed commonly (and that without any reproach or imputation) to aske whether they were Robbers or Pyrates or not. And not onely *Plato*, and his disciple *Aristotle*, haue put robberie among the kinds of hunting, but the Hebrewes also, who call Theeves and Robbers, mightie hunters, as they did *Nimroth*. And by the lawes of *Solon* it is plaine, that men might lawfully ioine in fellowship to robbe and steale, (provided alwaies that it were not from the subiects of their owne estate) as appeareth by these words, ἐπὶ λείαν διόμενοι, which the Latin interpreter thinking to be absurd and false, hath wrested them another way: For what other thing is ἐπὶ λείαν διχεσθαι, than to robbe? And what other thing is λεία, but ἐκ τῶν πολεμίων λάφυρα? Neither were robberies lesse allowed of the auncient Latines than they were of the Greekes and Hebrewes, as it is to be perceiued by the first league made betwixt the Romans and the Carthaginians: wherein it was thus expressly set downe: **Ultra Promontorium pulchri prædæ aut mercaturæ gratia Romani ne naviganto*, Beyond the faire Promontorie, the Romans shall not faile either for bootie, or in trade of marchandize. From which kind of robberies long it was before other people also abstained: for so *Cæsar* speaking of the Germanes in his time saith, *Latrocinia nullam habent infamiam, quæ extra fines cuiuscunque ciuitatis fiunt, atque ea inuentutis exercende, ac desidiæ minuendæ causa fieri prædicant*, Robberies done without the boundes of euery citie, haue with them no infamie; and those they say to be done for the exercise of the youth, and auoiding of slouth. This licence and impunitie of robbing and reauing, constrained men which as yet had no Princes nor Magistrats, to ioine themselves in societie and amitie for the defence of one an other, and to make Communities and Fraternities, which the Greekes called φρατρίαι, and φράτορες, as brethren which drew water of the same well, which they called φράγ; as also παγαν, which are rurall and countrie people vsing the faire fountaine, which the

The beginning
of strong townes
and cities.

The first sort of
men, most de-
lighted in theft
and murder,
and oppressing
of others weaker
than themselves.

Theft and robberie
in auncient
time no disgrace
not shame.

Theft in auncient
time lawfull both
amongst the
Greekes and
Latins.

Polyb. Lib. 3.

A the Dorians called *παῖς*, and whereof such countrey villages were called *Pagi*, as the Latines also said them *Commeſari*, who in the same countrey villages, which the Greekes called *κώμης*, did ordinarily eate and drinke together: as * *Festus* writeth. * *Festus* in verbo *pagi*. The societies of men, why they were first sought out. Whereby it is plainly to be scene, the societies of men among themselves; to haue bene at the first sought out for the leading of their liues in more safetie and quiet: and them first of all to haue sprung from the loue which was betwixt man and wife: From them to haue flowed the mutuall loue betwixt parents and their children: then the loue of brethren and sisters one towards another: and after them the friendship betwixt cosens and other nie kinsmen: and last of all, the loue and good will which is betwixt men ioyned in alliance: which had all at length growne cold, and bene viterly extinguished; had it not bene nourished, maintained, and kept, by societies, communities, corporations, and colledges: the vnion of whome hath for long tyme in safetie maintained many people, without any forme of a Commonweale, or soueraigne power ouer them. So the people of Israel for a long time florished in great tranquillitie without kings, and without any Popular or Aristocraticall estate, euerie man liuing at his pleasure in all libertie, euerie Tribe being in it selfe vnited by the bond of bloud and kindred, and all of them together by the communitie of their law and sacrifices. VVho when they were by any enemie to be assailed or inuaded, the estates of their Tribes and communities assembling together, made choyce of a chieftaine, vnto whom they gaue soueraigne power; and namely of such an one as God had with his spirit enspired and stirred vp amongst them. So of many Tribes and families together vnited, was made a Commonweale, by meane of a soueraigne power set ouer them. And for this cause the princes and lawgiuers which first founded Commonweales, who had not yet disco- uered the difficulties they were to prone; to keep & maintaine their subiects by way of iustice, ordained and maintained fraternities, communities, and colledges; to the end; that the parts and members of the self same body of a Commonweale, being at accord among themselves, it might be for them the more easie to rule the whole Common- weale together. So we see that *Numa Pompilius*, king and lawgiuer vnto the Romans (after he had abolished the name of the Sabines, which some thing diuided the Roman state) established certaine fraternities, and colledges, or companies of men, of all maner of occupations; appointing vnto euerie fraternitie certaine pattons; priests, and solemne sacrifices, which were kept on certaine appointed dayes of the yeare. And afterwards also ordained a fraternitie of marchants, to whome he gaue *Mercurie* for their patton; which he seemed to haue done to the imitation of *Solon*, who by a positue law per- mitted all maner of fraternities and communities whatsoeuer, with power for them to make such lawes and statutes among themselves as they should see good, so that they were not contrarie vnto the publike positue lawes of the state. *Lycurgus* also did not onely permit, but straidly commaund also to maintaine and cherish such societies and communities, as well generall as particular; and that all his subiects should take their refection and diet in companies of fiftene and fiftene together: which for that they were kept for friendship sake, were called *φιλίται*, of the friendship that they had one of them with another. As also in almost all the other townes of Greece, there were the like fraternities and companies, whome they called *ἐταιρίαι*; as in Italie the same colledges and companies were called *Sodalitia*; for the vnitie, companie, and friendship they had among themselves, eating and drinking together for the most part: and hauing no iudges but themselves, if any difference or strife chaunced to fall out amongst them, being such companions and fellowes; as knowing that amitie and friendship was the onely foundation of all humane and ciuill societie; and much more requisite for the keeping and maintaining thereof, than iustice it selfe: For that iustice

The happy estate of the people of Israel before they had any king, or other forme of Aristocraticke or popular commonweale.

Fraternities, communities, and colledges, why they were first instituted and ordained.

Amitie and friendship the foundation of all humane and ciuill societie; and more requisite for the keeping and maintaining thereof than iustice it selfe.

neuer flexible, but alwayes keeping the vprightnesse of it selfe, by iust iudgement well endeth suits; but not hatred, making oft times of friends foes: whereas amitie and friendship, which is by company nourished, yeelding of the right of it selfe, best establissheth the true naturall iustice, and plucketh vp all controuersies by the root, with great quietnesse and loue reconciling subiects among themselues, together with the Commonweale. Now the principall end & scope of all laws, both diuine and humane, is to keep and maintaine the loue of men one towards another amongst themselues; and them altogether in their dutie towards God; which cannot better be done, than by ordinarie and orderly conuersing and combining of men themselues together.

Wherefore the Cretentians in auncient time did all eat and drinke together, young and old, men and women; for to maintaine the loue and amitie which we haue before spoke of amongst them: Howbeit that afterwards to auoid confusion, the ages and sexes were into certaine orders diuided. So we see in the law of God, the feasts of Pascheouer, to haue bene commaunded to be holden by companies of ten and ten persons together: beside the feasts of Tabernacles, and the ordinarie banquets of sacrifice, which God commaunded to be solemnised with all ioy and gladnesse: and that for no other cause, but that so men might be together vnited in religion towards God, and mutuall loue and friendship one to another among themselues. The same was also well obserued & kept in the Christian primitiue church, who oftentimes made such feasts, which they called *ἀγάπαις*, for the deuout kissings, and charitable embracements one of them (in the feruencie of their zeale) gaue to another, in the ending of them, besides their ordinarie behauiour and communication. And albeit that many things are long since by tract of time growne out of vse, yet neuertheless a resemblance of those old feastes is yet shadowed in our holy feasts and banquets: which not faigned but true feasts the Venetians do with most great care and solemnitie keepe: but the Swislers better than in any place of the world, where the fraternities and companies in euerie towne haue their common houses or halles wherein they oftentimes make their feasts and bankets, neither is there any village so little, which hath not a common house in it for that purpose. Where if any strife or contention shall arise amongst them that be of the fellowship or companie, it is by the common consent there ended, and the definitiue sentence there written, not in paper, but vpon the verie table whereon they haue banqueted; and that not with inke, but with chalke. And as in auncient time artisans, marchants, priests, bishops, and all sorts of men had their fraternities, and companies: so had also the philosophers, and especially the *Pythagorians*, who ordinarily met together, and liued for most part of their time in common. And thus much concerning the cause, the beginning, and progresse of corporations, and colledges, communities, and companies: which afterwards by succession of time haue in all Commonweales bene better ruled by lawes, statutes, and customes.

But that all things which are to be said of corporations and colledges, may in order be declared: Let vs first orderly set downe and show, what power euerie corporation or colledge is of, and what priuilege is to euerie one of them giuen; then how they are to be gouerned, and kept within the bounds of their dutie; and last of all, whether a Commonweale can be without colledges or companies, and what colledges are most necessarie and best fitting a Commonweale. Which the better to vnderstand, we may say, that all colledges and companies are ordained either for religion, or for policie, and so concerne but worldly things. If they be instituted but for policie, either they haue iurisdiction, or are without all iurisdiction. Colledges without iurisdiction, are such as are ordained for the bringing vp of youth, or for fellowship of physitians, or of other schollers, or of marchants, or of handie craft and trades men, or of companies of husbandmen

Orderly feasts and meetings of old time instituted to maintaine loue and amitie amongst men.

The diuision of colleges and companies.

A bandmen: but such as haue iurisdiction, are colledges of magistrats, and judges, such as of whome we haue before spoken: Colledges ordained and made for religion, or for publike deuotion, are growne into number almost infinit, differing as wee see, in lawes, manners, life, attire, orders, fashions, and apparell. And it may be, that a colledge may be particular to one occupation, or to one science, or to one companie of marchants, or to one iurisdiction: and it may also be, that two or more colledges; may be vniited into one bodie, as all manner of occupations together, all sorts of marchants, or all maisters of sciences, or all the magistrats; which ought not of right to bee called a colledge, but a bodie politique, or corporation: albeit that by the ambiguitie of words they be oftentimes together confounded. For there was one colledge of the Tribunes, **B** another of the Pretors, and another of the Questors: but when these three colledges meet together into one and the selfe same bodie, it is foolishly called a colledge: and yet can it not rightly be termed an Vniuersitie, which consisteth of the companie and assemblie of all the citisens, colledges, and corporations, yea and sometimes also of the villages of the same countrey. Wherefore we shall rather call it a bodie politique than a colledge: which so together groweth of many colledges, or persons of vnlike condition. And it may be also, that all the particular colledges may haue the right of a generall communitie, or of an vniuersitie. And that not onely all the colledges and communities; but that also all the inhabitants ioyned together with the corporation & colledges of a towne, or of a countrey, or of a prouince, may haue the right of a communitie for to hold their estates. **C** Moreover the right of a colledge or companie may be giuen to euerie mylterie or occupation in particular, and yet forbidden them in generall. And euerie one of them may haue diuers rules, statutes, and particular priuileges. So that we may say, that euerie corporation or colledge, is a lawfull communitie or consociation vnder a soueraigne power. Where the word Lawfull importeth the authoritie of the soueraigne, without whose permission there can be no colledge: and is referred not onely vnto the power of meeting together: but vnto the place also where it ought to meet, vnto the time and manner of meeting, and to what things ought to bee entreated of, in their assembly. And the word communitie, or consociation, signifieth that there ought some thing to be common to all that be fellowes of the colledge or **D** societie: For where there is nothing common, there is no colledge: sufficient it is for them to haue their meeting common, their attourney or agent common, and the priuileges giuen vnto the colledge common vnto all the fellowes thereof: albeit that they haue neither common treasure, neither ordinatily liue or conuerse together: So that they haue not well defined a colledge, which haue said it to bee a fellowship of three persons dwelling together, hauing their goods and substances in common. Wherein they are two wayes deceiued, for it may be, that three persons or more may haue their goods in common, and liue together, and yet be all no colledge, but a societie of themselves, contracted for the getting of goods, and liuing together: as also to the contrarie, fellowes of the same colledge may dwell separat in houses, not hauing their goods in **E** common, nor any common treasure; neither yet commonly liuing together: and yet enioy indeed the right of a colledge or companie, as hauing by law and the princes graunt, power to assemble themselves and meet together at certaine places, and times: and to intreat of certaine their affaires, such as are the fraternities or companies of artificers and trades men, whome the law calleth *Collegia*, or colledges. Yet some colledges there be, which haue almost all those things among themselves common, as wee see those to haue, which are together ioyned for studie, religion, or deuotion sake.

As for the number of fellowes in a colledge or societie, it is no matter what it bee, so that they be not fewer than three: for that otherwise it cannot be a colledge. Wherefore

What a corporation or college is.

No corporation or college to be suffered without the leave of the soueraigne.

Every college or societie must haue something common to all the fellowes thereof, being otherwise no college.

What number of fellowes ought to be in a college or societie.

What number of
fellowes ought
to be in a college
or societie.

fore the Romans called it not a colledge of their Censors, or Consuls, as they did of their Pretors, Tribunes, and Questors. And as for the fellowes themselves, my meaning is, that they should be equall of power, in respect of their communitie or fellowship, hauing euerie one of them a deliberatiue voice in their assayres: howbeit that it may be, that the colledge, or prince, may make choyce of one of the fellowes to commaund, reforme; and chastice euerie one of the fellowes in particular, but not all of them in generall: such as ate our bishops and abbats, hauing power to chastice their religious and chanons. But if this head or chiefe haue power ouer the whole body of the societie or colledge in grosse, it is not then rightly a colledge, but rather a forme of familie, such as are colledges or schooles ordained for the bringing vp of youth: wherein there bee no burfors or fellowes, which haue therein any deliberatiue voice: For if it haue in it any such burfors or fellowes, hauing the right of the societie or colledge, and deliberatiue voice in their assemblies, it is then a colledge, albeit that the rest of the yonger sort be vnder the power and correction of the principall.

Whether the
head or principal
of a college be to
be also accounted
a fellowe thereof

And hereof ariseth a question, Whether a bishop in the companie of his priests, or an abbat amongst his religious, be to be accounted fellowes, hauing the verie title and right of a fellow, and himselve making a part of the colledge, without the qualitie or title of a bishop or abbat? Which question being by the learned on both parts disputed, yet remaineth vndecided. But to leaue the disputation apart, it seemeth, that he which is chosen by the colledge or prince to commaund all the fellowes in particular, hath a double qualitie; one in respect of euerie one of the fellowes, and another in respect of the whole colledge or societie: where in regard of the fellowes he is called Principall, Bishop, Abbat, Prior, President, or such like, hauing power and authoritie to commaund euerie one of them in particular: howbeit that in the bodie of the colledge or corporation, he is no more than a fellow, although he haue the place of precedence: and that is it for which they put their titles diuided, as, the Bishop, Chanons, and Chpiter; the Abbat, Religious, & Couent; the Principall, Burfors, & Colledge. Wherein one of the chiefeft lawyers hath bene deceiued, saying, That the Philosophers haue called the persons of a colledge, the colledge: showing indeed no Philosophie in so saying, considering that a colledge is a name of right, and that all the reuenew and right of a colledge may remaine in one person, the rest of the fellowes being all dead. And in case that all the fellowes of a colledge were dead, yet doth the right of a colledge remaine: neither can the lands or goods thereof be confiscated, except the right of a colledge be before by the supreme authoritie suppressed. For one of the principall priuileges of corporations and colleges is, that legacies may be vnto them giuen by testament: whereas societie by the law forbidden, ate not colleges, but vnlawfull assemblies, vnto whom it is not by the law permitted, to leaue any thing by testament, albeit that legacies may be giuen vnto euerie one of the colledges. But to the intent such vnlawfull companies and assemblies might be repressed, I thinke it needfull, that it should by law bee forbidden, any lands or legacies to be vnto al or any of them left by testament, as vnto fellowes of such corporations or colledges.

Antoninus first
that gaue leaue
for legacies to be
giuen to colleges

And whereas we haue said, that a colledge or societie may be without any common stocke or treasure: that is also to be vnderstood, that a colledge or societie may bee ordained with such prouiso, that nothing shall be left vnto it by gift or legacie. *Antoninus* the emperour was the first which gaue leaue for legacies & donations to be giuen to al colledges, except to the colledges of the Iewes, vnto whome it was yet lawfull to meet together for religion sake, and to haue their Synagogues: as is to be seene in the oration of the ambassadour *Philo*, vnto the emperour *Caligula*. And *Augustus* himselve by letters pattens directed vnto the gouernours of the prouinces of the empire, commanded,

A ded, That they should permit and suffer the Iewes to enioy their colledges. Whereupon *Narbanus* Proconsull of Asia, forbad the magistrats of Ephesus in any sort to let or disturbe them. Yea that more is, *Augustus* himselfe commaunded a dailie and perpetuall sacrifice of a calfe, a goat, and a ram, to be made at Hierusalem for the welfare of himselfe, and of the Commonweale: and willed an ordinarie almes or doale to bee giuen vnto the Iewes, of his owne proper costs and charges, for the reliefe of their necessitie. There be also corporations and colledges of judges and magistrats, which yet are not capable of testamentarie legacies, if they haue not expresse leaue by their erection and institution so to doe. As was iudged against the Senat of Rome: whereunto *Rufinus Capius* one of the Senators, had giuen by legacie a certaine summe of money, which he willed to be still distributed to them onely which came vnto the councell: which legacie the Senat demaunding, *Capius* his heires denied it to bee vnto the Senat due: in which controuersie *Domitian* the emperour gaue sentence for the heire; and excluded the Senat, although it were the most auntient, and most necessarie corporation of all the Roman Commonweale.

Augustus a great fauorour of the Iewes.

And thus hauing set downe and declared the beginning and definition of colledges, and communities: let vs now also speake of their power in generall; which is not determined by their particular foundations, statutes, and priuileges, which are diuers and almost infinit, according to the diuersitie of the particular colledges and communities themselues. Now the chiefe corporations or colledges, and which haue most power in a Commonweale, are the colledges of judges and magistrats: who not onely haue power ouer euerie one of their fellowes, and the lesser part of their owne colledge, but ouer other particular colledges also; and so ouer others subiect to their iurisdiction, and yet without their colledge. And in this the colledges of judges and magistrats notably differ from other colledges: for that other colledges are established euerie one of them for the good gouernment of that onely which is vnto themselues common; whereas the colledges of judges and magistrats, are principally erected for the good of other subiects, and to rule the other colledges, as also to chastice them if they shall transgresse their lawes and statutes. But as a wise man ought first to be wise for himselfe, and then for others; as also to looke first into himselfe, before he can rightly iudge of others; or as the Hebrewes in their prouerbes say, That charitie ought first to begin of it selfe, if it be well ruled: So ought the colledges of judges and magistrats, first to establish iustice amongst themselues, euerie one of them in particular, and to themselues all in generall, the better to distribute the same to the other subiects.

The colleges of iudges and the chiefe colleges in a Commonweale.

But question might be made, Whether it were more expedient that the colledges of magistrats and judges, should be iudged by their fellowes, or by others: for some particular reasons, which in due place we shall hereafter set downe. But here to make the matter short, If the colledge for the most part be composed of euill and naughtie men, it is not to be left vnto themselues, to iudge of their owne misdmainers; but they are to be iudged by the superiour magistrats, if they haue power ouer them; or by the prince, in case they be not by any other superiour magistrat to be reformed. But if the greater part of them be good and honest men, there is then no doubt but that it is better and more expedient both for the colledge and the Commonweale, that the fellowes should be iudged by their fellowes, rather than by other iudges: For that euerie colledge I know not how hath in it some particularitie which cannot so well bee vnderstood or iudged, as by the fellowes of the same corporation themselues. Ioyning hereunto also, that by this meane the loue and vnitie of the fellowes among themselues, is in their colledge and societie the better maintained. And for this cause chiefly the emperour *Adrian* decreed, That the Roman Senators should be iudged by the Senat onely.

Whether it were more expedient the colleges of magistrats and iudges to be iudged and reformed by their fellowes of the same societie, or by others.

ly. And for the ſelte ſame reaſon the ciuill iuriſdiction of marchants, and for the trade of marchandiſe hath bene wiſely in all Italie, and ſince that in Fraunce committed and giuen to certaine magiſtrats and Conſuls of the corporation and companie of marchants, ſummarily to decide the differences ariſing about the contracts of marchandiſe, which haue in them I know not how certaine ſecrets, not to others well knowne.

Colleges not ha-
uing any iuriſ-
diction but only
a reſtraining
power, how they
are to uſe the
ſame.

As for other corporations and colledges, as of phyſitians, and tradesmen, albeit that by their foundation they haue nor any iuriſdiction or commaunding power; yet neuertheſſe ſo it is, that they alwayes haue a certaine reſtrayning authoritie and power by their ſtatutes and priuileges, limited and allowed them; and ſometime without any limitation at all left vnto the wiſdome and diſcretion of the corporation or colledge, or of the head thereof: which ought to be uſed with ſuch moderation, as the father is to uſe towards his children: which ought not to be with crueltie or rigour. For if the law condemne him to pay the price of the ſlaue, ſlaine by him that hath taken vpon him to teach him, albeit that it were in correcting of him: of much greater reaſon were he to be condemned, which hauing but the moderat correction of men of free condition, ſhould uſe ſuch rigour as that death ſhould thereof enſue? As it ſometimes happened in Lacedemonia, where yong children were by the Great Maſter of the youth ſo rigorouſly whipt, ar that ſometimes they gaue vp the ghoſt vpon the altar of *Diana* whileſt they were yet in whipping; moſt part of them not daring ſo much as to ſigh or grone, for feare they had to be accounted ſaint harted cowards. And albeit that the emperour *Frederike* the ſecond gaue power and authoritie vnto the reſtours of Vniuerſities, and that the principals of ſchools and colledges haue alwayes had the correction of their diſciples and ſchollers: yet that is to bee vnderſtood but of light matters, and not of ſuch chaſtiſement and correction as the magiſtrat hath by the princes graunt ouer priuat offenders; as many haue bene of opinion. For why, neither the German emperour, nor the pope can giue any ſuch power vnto the principales of colledges, or to the colledges themſelues: but in ſuch countries as are vnto themſelues ſubiect. For albeit that pope *Gregorie* the eleuenth in a Bull graunted for the confirmation of the priuileges of the Vniuerſitie of Paris, before graunted by the popes *Urban* the fiſt, and *Innocent* the ſixt, in one article prouided, That if a ſcholler committed any thing deſeruing puniſhment, the hearing thereof ſhould belong vnto the biſhop of Paris onely: and in another article alſo, That no ſcholler ſhould from thenceforth bee imprifoned for whatſoeuer debt. Yet the French kings and magiſtrats haue of ſcentimes well declared themſelues not to bee bound to any ſuch the popes Bulles. Yet true it is, that colledges inſtituted for religion, haue ordinarily the correcting of them that are therein profeſſed; and that ſo much the more, as their rule and order is the ſtraiter: For which cauſe ſuch as haue therein taken vpon them ſuch profeſſion, are exempted from the power and correction of their owne fathers: albeit that many hold the contrarie: whoſe opinion for all that is not in that point followed. And yet neuertheſſe certaine it is, that the naturall dutie and reuerence of children towards their parents, remaineth alwaies in force and power, notwithstanding whatſoeuer bond and vow they haue made to any corporation or colledge. For why, neither mans lawes, nor the ſtatutes or priuileges of princes can derogat from the lawes of God and nature, which hath expreſſly bound children vnto the obedience of their fathers and mothers; from which they can by no otherwiſe free, or yet deliver themſelues, than by lawfull emancipation: or their fathers ſilence, who in ſaying nothing, ſeeme to haue conſented vnto their childrens vowes, which by ſpeaking they might haue letted: which coſent for all that excuſeth not children from doing the

Whether chil-
dren hauing ta-
ken vpon them
any vowe of re-
ligion, be yet ne-
uertheſſe
bound to honor
and obey their
parents.

- A** the honour and reuerence due vnto their parents, although that they being so professed, be from thenceforth accounted children of the colledge; vnto whome also their colledges in right of inheritance succeed, they themselves being accounted of seruile estate & condition. For which cause the canonists giue vnto the abbies power and authoritie ouer their owne religious, exempt from the bishops, which hath oftentimes by the decrees of the parliament of Paris bene confirmed. In such sort, as that they which are once entred into such religious orders, may not from that time be called to account or into questio for any thing by them committed before they entred into the monastery: which yet is to be vnderstood but of light & youthfull faults; which otherwise were but to open a way to theeues and murtherers, to retire themselves into such colledges, as into forrests, for the auoiding of due punishment; as indeed it oftentimes happeneth: wherewith the wise magistrats ought to meet, & according to the law of God to draw the murtherers from the altar to doe vpon them iustice. As the court of parliament of Thoulouse (not long agoe) condemned two religious monks of the order *D'aurade*, to be in their habits shamefully drawne vpon a hurdle to the place of execution, and there to be quartered, without disgrading of them, for hauing most cruelly murdered the head of their monasterie, whose seueritie they could by no meanes endure. Yea the abbat himselfe may by his monkes be conuented before the ordinarie iudge, and that as well in criminall as ciuill matters: who may also freely appeale from the sentence of their abbat vnto his superiour, as it hath oftentimes bene iudged by the decrees of the parliament of Paris; & that without leaue, as witneseth * the abbat of Palermo; and hath also bene iudged by the parliament of Bourdeaux. And for the same reason if the colledge would without cause thrust out or depriue one of the fellowes of his right, priuilege, and libertie in the colledge, the hearing of the cause belongeth to the ordinarie iudge of the colledge. Howbeit that in auncient time the corporations and colledges of Artisans, Marchants, and other such like, had this power (for the remo- uing of their fellowes) as we read in *Cicero* of the Roman marchants, *Mercuriales & Capitolini*, *M. Furium hominem nequam, equitem Romanum de collegio deiecerunt*, The *Mercuriales* and *Capitolini* (saith he) thrust *M. Furium* a naughtie man, and yet a gentleman of Rome, out of their colledge or companie. And in *Lacedemonia* (as *Plutarch* writeth) it was lawfull for to thrust out of their colledges or companies, him that had discouered or reuealed the sectets of their companie. As in like case *Panormitan* the abbat writeth, That in abbies or colledges erected for deuotion, the chapters haue power to thrust out any of the fellowes, or to depriue him of his ordinarie diuidents, but not to beat him, or to vse seuerer correction vpon him, or yet to imprison him; as hath bene iudged by a decree of the parliament of Paris.
- B**
- C**
- D**
- E**

That Monks may conuent their Abbot before the ordinarie iudge; and also appeale from the iust sentence of their Abbot.
* Panormitan the Abbot.

But yet here a man might aske, Whether a colledge may make a decree, That none of the fellowes shal conuent or sue another of his fellowes, before any other iudges but the colledge? And in case it be so decreed, whether hee that shall breake the decree so made and sue his fellow before another iudge, shall bee bound vnto the ciuill penaltie in the decree set downe? Wherein *Scenola* the lawyer is of opinion, the decree to bee good; and that the fellow of a colledge or societie cannot haue recourse vnto other magistrats, contrarie vnto the decree of the colledge; but in paying the penaltie in the decree of the colledge expressed. Howbeit (in mine opinion) this decree is not general, neither can take place in causes criminall, no more than the conditionall penalties set downe in arbitrements, which haue no place if they concerne matters of crime. Secondly mine opinion is, That the decree of a colledge or companie, euen in ciuill causes hath no place, if all the fellowes of the colledge or societie giue not thereunto their consents, as they do in arbitrements, whereunto no man is bound that would

How decrees are
in colleges and
societies to be
made, to bind e-
very one of them
to that is com-
mon to every
one of them in
particular, as al-
so to that which
is common to
them all jointly
and indiuissibly
together.

would not. For in all communities, corporations and colleges, and so generally in euery societie and companie, if question be of any thing which is common to them all in particular & apart from the community, the expresse consent of euery one of them is therein requisite, if any thing be therein to be done. But if question be of that which is common to them all jointly & indiuissibly, it sufficeth that the greater part be of one opinion; for the binding of the rest: Provided alwaies, that nothing be ordained or decreed, contrarie to the statutes of the college, established by the soueraigne prince; or by the founder of such corporation or college, authorised by the prince: Wherefore the laws of the Commonweale, and the statutes of the college standing whole and entire, the college may make decrees which may bind the lesser part all together, and all the fellows in particular: yet still provided, that two third parts of the fellows consent vnto the making of the decree: albeit that they be not all of one aduise or opinion, in matters concerning their common societie, although that such decrees so made cannot bind the greater part of the fellows collectively, and much lesse the whole corporation and college: no more than the prince is bound to his owne law, or the testator to his owne will, or particular men vnto their owne agreements; from which they may by their common consent reuolt, nothing beeing more agreeing with reason and nature, than euery thing to be dissolved, by the same meanes that it was made.

Whether decrees
made by the
consent of an
whole college or
societie may by
the greater part
thereof againe
be abrogated or
repealed.

But yet it might be doubted, Whether decrees made by the consent and good liking of an whole college or societie, might bee againe repealed and abrogated by the greater part, or two third parts of the same societie or college? Which I doubt not but that they may in all common estates, corporations, and colleges, if question be but of things common to them all in generall (as they are one vnitied body:) but if question be of euery mans right by himselfe particular and apart from others, then euery man is to giue his consent thereunto. Wherefore if the assemblies of the estates in a Commonweale consist and be of diuers bodies, as in the diets of the empire, and in all other Commonweales are composed of three orders and degrees of men, *viz.* of the Clergie, the Nobilitie, and Comminaltie, nothing can be done or decreed by any two of the orders, to the hurt or prejudice of the third, especially if the matter concerne euery one of the orders by themselves apart. By which reason I caused two of the orders of Fraunce, to change their opinions in matter concerning the third. For at such time as I was sent deputie for the prouince of Vermandois to Blois (whither king *Henry* the iij had called an assemblie or parliament of all the kingdome of France) a great and weightie question was moued amongst the three estates, Whether it were more indifferent, and better also, the requests of the people to bee before the prince iudged and determined by 36, men which euery one of the three orders should by voice chuse, than by the prince himselfe with his counsel? And now the Clergie and Nobilitie had not onely so decreed, but had drawne a great part of our sort vnto their side also, hauing with hope of great rewards gained their voices. At which time I perceiuing the drift and purpose of certaine ambitious persons that were dealers in the matter, answered, That the matter was further to bee considered of. For why, it was laboured, that such things as could not bee obtained of the people in generall, might so be from a few in the name of the whole extorted. Wherefore the question being more thoroughly debated, I denied that the matter could so by vs bee passed, without a more speciall commission from the people. Neither that if wee had any such speciall commission from the people, could it yet by vs bee done, without the great daunger of the whole Commonweale; and that for many reasons, by me then discovered: whereby I drew the rest of my fellowes backe againe to mine opinion, who laied this charge vpon mee to remoue also the other two orders of estate from

A from their former receiued and settled opinion. But when the Archbishop of Lyons (President of the Ecclesiasticall estate) earnestly withstood me, seriously alleaging that the Clergie and Nobilitie had before so resolved; I showed him, that such a Prerogative had from all antiquitie beene kept to euery of the three Estates, as that no two of them could decree any thing to the prejudice of the third: as it had before without any difficultie passed in the parliament at Orleance; and as it is also vsed in the diets of the Empire, and the Parliaments of England, and of Spayne. For which cause, and other reasons then alleaged, I requested the other two orders of Estate, to take it in good part, in that they were by me hindered, as hauing the charge of the third estate. Which was the cause, that the thing beeing againe called into consultation, both the estates

B changed their opinions. Which the king hearing, and dissembling his griefe, said in the presence of *Raſe* Bishop of Angiers, and other Lords, That *Bodin* at his pleasure had ouer ruled the Estates.

But if question be of a thing common to all a corporation or colledge, and which concerneth not any the particular members apart from the whole bodie, but the whole and entire bodie onely; the greater part of the societie, may at their discretion thereof determine: albeit that the whole communitie haue determined that their Statutes and orders should not be infringed, but by the consent of all the fellowes. For why, The greater part of a Communitie is alwaies reputed for the whole. Yea the law willeth, that he which is chosen of a communitie or colledge to entreat and discide of their

C common affaires, may bind euery one of the colledge. Wherefore they are deceived which write the greater part, or two third parts of a Colledge, to be able to do nothing, if the colledge haue made a statute, That they must all thereto consent: for if that might take place, then any one of the fellowes himselſe alone might empeach and stay the aduise, decrees, and resolutions of the whole societie; which is contrarie to the formall disposition of the law, which willeth, That in all acts concerning a communitie or corporation, the greater part should be the stronger; and, that the more part of two third parts, may giue lawe to all the fellowes in particular; whether the rest of the fellowes be there present or absent. For why, it is not needfull that they should all be present; that the decrees should stand good; and that especially in light matters; prouided yet

D that they be all thereunto summoned or called. Howbeit that in matters of waight & consequence, it is needfull that two third parts be there present, albeit that they all giue not their consents, except it be by a speciall law prouided that the two third parts must of necessitie agree in one. As by the iudiciall lawes of *Lewes* the xij the French king, it is ordained, That two parts of the Iudges, and no fewer, may in the higher Courts end any ciuill cause: whereas in criminall causes, equall voices acquite the partie accused; who yet otherwise is to be condemned, if the greater part do but by one voice exceed the lesser. So also by a decree of *Gregorie* the x, concerning the election of the Pope, he must haue two third parts of the colledge of Cardinals that is to be chosen Pope.

E As also in many elections of the heads of Colledges, it is necessarie that two third parts of the colledge should agree in one. Yea sometime it is necessarie that all the fellowes should be of one and the selfe same accord: As in Rome it was by the Tribuni- tiall law requisite that all the ten Tribunes should be of one opinion and mind, or at least wise not openly to dissent; for that otherwise one Tribune alone might empeach and stay the proceedings of the whole Colledge. Now if they all agreed in one, then vnto the decree were ioyned these words, *Pro Collegio*, for the Colledge: otherwise if there be no speciall statutes or law to the contrarie, the greater part of two third parts sufficerh in all acts concerning the communitie of corporations and colledges.

The greater part of a Colledge or Communitie alwaies reputed for the whole, and therefore may as it seemeth good, determine of any thing which concerneth the whole corporation or colledge.

It is also necessarie, that the consent whereof we speake, bee giuen in the common assem-

For the making of a decree in a colledge, or corporation, the consent is to be given in the common assembly of the same, & that in time & place by the statutes thereof appointed.

assembly of the corporation or colledge: for albeit that all the fellowes had seperately and apart consented vnto any thing concerning that which is common to all the Colledge, yet so it is that such act is not to any effect or purpose, neither for nor against them which haue so given their consents, although it were done euen before publique notaries: for that it is not done by the Colledge, which is done by all the fellowes apart. Neither sufficeth it that all they of the Corporation or Colledge were called together, if it were not in time and place, by the Statutes appointed. Wherefore two parts of the fellowes gathered together, can do more, than all the fellowes consenting apart.

But here some man may aske, who shall call the fellowes together? Wherein many are of opinion, that the most auntient fellow of the Colledge or Societie, hath power to call the rest together; as also to condemne them of contumacie for not coming: and yet for all that not to haue power to fine them, which is but a ridiculous thing, if such contumacie cannot be punished, neither by him, nor yet by the colledge; as certein it is that it cannot: wherefore such calling of the fellows together, by the most auntient fellow, is but vaine, except that the fellowes of their owne accord be content to obey the same. And therefore the Senat during the Consulship of *Cesar* could not be assembled or called together, *Cesar* the greatest magistrat forbidding the same, as is afore said. Other some are of an other opinion, and hold, That two third parts of a Colledge may of right call together the rest: but yet who shall then call together those two third parts they say not. Howbeit if two third parts suffice to do and determine the affaires of a corporation or communitie, we need not to trouble our selues with the rest, all the fellowes being called. Howbeit the custome kept almost in all corporations and colledges is, for the elders by their seruants or other ministers to call together the rest; or else for them of them selues to come together at the tolling of a bell, or the sound of a Trumpet; as in auntient time they did in Græce and Rome, when as the magistrats which had power to assemble the people, or the Senat, caused their commaunds by the sound of a Trumpet to be published to the people in particular, but not to all in generall, for that they could not be so in that sort commaunded. And who so obeyed not but refused to come, him the magistrat had power to fine, or seize vpon his goods: As we see how that *Marcus Antonius* being Confull, threatened *Cicero* to pull downe his house, if he came not to the Senat being called. So that there is no question where he that calleth together the fellowes, hath power to commaund. But if the Colledge or societie be destitute of an head or magistrat which hath power to commaund, or hauing power, yet is not willing to constrain them which will not obey him; then he whom it concerneth to haue the societie assembled, is to obtaine commission from the magistrat to constrain them to come together, and so we vse to doe. Yet may the greater part of the fellowes together, depriue euery particular fellow of part of the profit and commoditie he is to haue of his Colledge, if being orderly called he shall refuse to come, it being so decreed; yet so that it be moderately done. Wherefore to conclude this question of the power of Communities, Corporations, and Colledges, we may say *Solons* law to haue generally place in euery Commonweale, and to be approued by the Interpreters of both the lawes: that is to say, that it is free for all lawfull communities; corporations, and colledges; to make such orders as they shall think for themselves best; so that therby they do not derogate from the statutes of the Colledge; made or established by the Soueraigne Prince, or that they be not repugnant or contrarie to the lawes and ordinances of the Commonweale. And in auntient time it was not forbidden corporations and colledges to make decrees and ordinances within themselves, without derogating from the publique lawes;

To whom it belongeth to call the fellowes together in a colledge or societie.

That it is lawfull for all colleges & corporations to make such orders as they shall thinke best for themselves, not derogating from such orders as were giuen them from their soueraigne prince, or from the lawes and ordinances of the Commonweale.

A lawes; as also to put therunto such and so great a penaltie and punishment, as pleased the Colledge. But since that time by the statutes and ordinances of euery Colledge & Commonweale, that power hath beene ordinarily cut short, and brought vnto some small fine. Neither am I of their opinion, which hold that a Colledge may make ordinances and decrees without any penaltie annexed vnto them; for that such an ordinance, degree, or statute, should be but vnprofitable and ridiculous, if no punishment were thereunto apposed against them that should disobey the same, especially if he that maketh the orders or decrees haue not power by arbitrarie punishment to cause them to be obserued and kept. We see also in many places the Corporations of artificers and such like, which haue the right of a communitee, to haue also a certeine forme of restraining, and visiting of the workes and wares of their occupations or trades, with power to seise vpon them, or to breake or confiscate them, if any thing be done contrarie to their decrees and orders: sauing yet alwaies the Magistrats authoritie for the hearing of the matter, if it be so referred vnto him. But whereas we said that a lawfull Corporation or colledge may make ordinances and decrees, not deto-
B gating from the lawes of the Commonweale: that is so yet to be vnderstood, as that they in their assemblies and meetings entreat onely of that which is vnto themselues common, and not of such things as whereof they are by the law prohibited not onely to determine, but euen to consult also: lest in so doing they incurre the penaltie appointed against vnlawfull Colledges and Companies.

What things Corporations and colleges are in their assemblies & meetings to entreat and consult of?

C And thus much concerning the power, rights, and priuileges of Corporations and Colledges in generall. Let vs now see also how and in what sort they are to be corrected and punished when they shall offend. Howbeit that one might say that where no offence is committed, there no punishment is to be inflicted. Now so it is that a colledge or corporation cannot offend, nor so much as consent, or doe any thing by fraud or deceit (as the law saith;) and therefore there lyeth no action of fraud or deceit against a colledge or corporation, although all the fellowes of the same colledge, or all the inhabitants of a citie, or all the estates of a countrie, had particularly and euery one of them apart consented thereunto: a thing yet altogether impossible in corporations and communities of Townes, Countries, Prouinces, & Commonweales, considering
D that the children and furious persons which therein are, cannot yeeld their consent thereto. But forasmuch as things done by the greater part of the fellowes of a colledge collegiatly assembled, or by the greater part of the inhabitants of a towne or citie in a lawfull assemblee, are supposed to be done by them all, therefore the whole colledge or corporation is punished: as in rebellions of Townes, and seditions of communities, which are punished in their Corporations by losse of their priuileges, or of the right of their communitee, by fines, charges, seruices, and other punishments, according to the qualitie of the offence: which punishment yet ought not to take place, if the rebellion or other crime be not committed by the consent of the communitee or corporation, and decree for the doing thereof made in their common assemblee: as it was iudged by
E a decree of the parliament of Paris, for the communitee of the citie of Corbeil. And yet neuerthelesse, if the corporall punishment be for the offence committed, to be inflicted, as whipping, torture, or death, none of the societie or corporation are so to be punished, but they which were therein partakers, or at least thereunto priue, although the whole bodie of the communitee or colledge be therefore condemned. As in priuat offences done by many being of no colledge or communitee, there lyeth not an action but against euery one of the offendours in particular, and for the whole, in such sort, as that one of them hauing made satisfaction, the others are thereby acquitted. But if such fact or offence be done by any one, following therein the aduise, counsell, and

How Corporations & colleges are to be corrected and punished when they shall offend.

How Corporations and Colleges are said to offend.

deliberation of all, they may be all therefore conuented, and euery one of them apart for the whole, neither one of them making satisfaction, are the others thereby discharged. But happely it may seeme a thing verie vnreasonable and absurd, that many, yea the greater part of the same colledge or corporation, should be found innocent, and yet to be altogether punished in the whole bodie, as in the cases by vs before rehearsed. Whereunto I answere, That it is yet more straunge, that the innocents should by lot be drawne together with the offendours, and that these should be punished, vpon whom the lot should fall; as the maner was in the Decimation (or as it were tything) of the armie, for hauing borne it selfe cowardly against the enemy, where the most hardie & valiant, were oftentimes by lot drawne out, and for cowards executed. Which example the Senator *Cassius* vsed, at such time as he in full Senat, perswaded the Senators to put foure hundred Slaues to death, although that there was one (and he vnknowne) amongst them guiltie of the murther committed in the person of their master, toyning thereunto these wordes: *Omne magnum exemplum habet aliquid ex iniquo, quod publica utilitate compensatur*, Every great example fauoreth something of iniustice, which (yet for all that) is with the common profit againe recompensed or requited. But this is not (may some say) to pay the debt, to alleage one inconuenience in defence of an other, and of one absurditie to conclude an other. Whereunto I say, that the best iustice that a man can doe is, of diuers inconueniences at once propounded, to shunne the greatest, especially when question is of such offences as may in no wise be left unpunished. For we see that the wisest, & most aduised Lawiers haue decided, That if there be any one slaine, or beaten, or robbed by many, they are all bound for the whole, albeit that happely it was but one of them which gaue to him the mortall wound: but if it shall appeare, which of them killed him, and that it was done without the conspiracie of the rest, onely he is bound that so slew him: But if it appeare not at all by whom he was slaine, neither that they had conspired against him, they are all acquitted from corporall punishment; but yet are to be therefore fined: For nothing is more effectuell for the finding out of that which is true and iust, then that in doubtfull things it is admitted, still to shunne those things which are more absurd and vniust. As if a felonie bee done which cannot by one man be performed; as if many haue caried away an other mans timber log, and amongst those many it appeareth not who it was that did it, none of them is guiltie of the theft, if we will sticke vnto the subtiltie of the words of the law; and yet are they all indeed guiltie: whereof the Lawiers haue no other reason, but that the inconuenience falleth greater on the one side, when they would shunne it on the other, which is (as we said) the greatest reason that a man can haue, to find out the truth of all things, when all other reasons faile. We speake not here of that which enemies do to townes besieged, and by force taken, pilling, killing, sacking aswell the good as the bad; and where the better that a man is, the worse commonly he fareth: but what a prince ought to do against his rebellious subiects. Howbeit that the Romans, although accounted the most iust people of the world, haue not alwaies followed that rule of equitie and iustice which we before spoke of, but sometimes punished not onely in generall, but euen in particular, all the inhabitants of their rebellious Townes after that they had taken them: and yet alwayes obserued this point, to punish the heads more seuerely than the rest, and to preserue them that had resisted the seditious; hauing still a speciall regard whether the rebellion were consulted of and decreed in the Corporation and communie or not. So *Linus* saith: *Valerius Leuinus Agrigento capto qui capita rerum erant, virgis caesos securi percussit, ceteros prædamque vendidit*, *Valerius Leuinus* hauing taken *Agrigentum* beheaded them that were the chiefe authours (of the rebellion) being before

A notable saying.

Of diuers inconueniences at once propounded, it is alwaies best to shunne the greatest.

The seueritie of the Romans against their rebellious conspirators.

- A** before whipped, the rest and the prey he sold. And in an other place: *Quoniam defectionis authores meritas penas a dijs immortalibus, & a vobis habent P.C. quid placeat de innoxia multitudine fieri? tandem ignotum est illis, & ciuitas data*, For that the authours of the rebellion (saith he) haue from the immortall Gods, and you the appointed fathers, receiued their deserued punishment, what is it your pleasure to be done with the rest of the guiltlesse multitude? at length they were pardoned, and the freedome of the citie giuen them. The Consull *Fuluius*, hauing after a long siege taken the citie of Capua, beeing reuolted from the Romans, beheaded fourescore of the Senatours, beside xxvij others which had before poysoned themselues, and caused three hundred more of their chiefe gentlemen to be in prison starued, the rest of the inhabitants he sold for slaues. As for the other Townes which were vnder the obedience of them of Capua, there were none but the chiefe men punished. *Atella, Calatiaq; in deditionem accepta, ibi quoque in eos qui capita rerum erant animaduersum*, Atella and Calatia (saith *Linie*) were taken in by composition, and there also execution was done vpon such as were chiefe doers in the rebellion. The other Consull *Ap. pius* more seuerer than his fellow *Fuluius*, would haue enquirie made also of their allies, who had had secret part in the same conspiracie: Whereunto *Fuluius* would not agree, saying, That so to do, were but to prouoke their faithfull and loyall allies to rebell, in giuing credit vnto the traiterous Campanians. Whereby it is manifest with what seueritie the Romans thought it good to punish their rebellious conspirators, during the time of their popular gouernment. And as for the Roman Emperours, some of them vsed towards such offendours gracious fauour, and other some extreame crueltie. The emperor *Aurelianus* for his clemencie deserueth to be for euer commended, who laying siege vnto the citie Thyane, swore that there should not a dog escape aliue, if he should take the citie: but hauing by force wonne it, chaunging his mind, as with compassion moued, he straitly forbid any man to be therein slaine; and when some to prouoke him vnto wrath, put him in remembrance of the oath he had made: he said it concerned but dogs, which hee commaunded to be all forthwith killed. The like clemencie *Henry* the first the Germaine Emperour, hauing condemned the citie of Brixia to bee vtterly rased, and laid even with the earth; yet when he had wonne the same, pardoned the citisens neuerthelesse, least the innocent people should so haue perished together with the offendours; following therein the mercie of God, who would not onely the good not to perish together with the euill and wicked, but promised to be mercifull vnto certeine cities, and a multitude of wicked persons, for some few good men to bee found amongst them. Some others of the Emperours haue contrariwise vsed most barbarous cruelties, without discretion killing the good and bad together, and that for the fault of some few. As the emperor *Antonius Caracalla*, who in reuenge of certeine rymes and songes made and sung against him at Alexandria, caused certeine of his garrison souldiours and Prætorian bandes to bee entermingled with the people as they were there beholding playes: who vpon
- E** a signall giuen, slewe an infinite number of the poore Citisens one with an other without respect, as they came to hand. The like whereof hee had also before commaunded to bee put in execution at Hierusalem. And afterward at Thessalonica, where the Emperour *Theodosius* the great caused seauen thousand of the inhabitants to bee slaine one with another pell mell in reuenge of certeine of his Receiours and other his magistrates and officers there slaine, without any deliberation or decree for the doing thereof, before made in their Communitie or Corporation. *Xerxes* king of Persia vsed an other manner of reuenge, not in deede so cruell as the other, but yet farre more ignominious and despitfull, causing

The notable clemencie of the emperor Aurelianus.

The great crueltie of Antonius Caracalla, Theodosius the great, Xerxes, and Sylla.

the noses of all the people of a citie in Syria to bee cut off (which citie after that was of that euent called *Rhinocura*) for the like fault done by some few of them. But of all cruelties that of *Syllaes* passed, who beside three score thousand citisens of Rome by him slaine, caused also all the inhabitants of Preneste to bee put to death, pardoning none but his hoast, who would also needs die with the rest, saying, That he would not be beholden for his life, vnto the murderer of his countrey. Which cruelty may yet be borne with, when the vanquished shal chuse rather to die than to become subiects; as in all ages there haue bene such: but not if they shall bee content to serue and obey them, by whome they are overcome and vanquished. So the Pisans (in the memorie of our fathers) not able to endure the iust government of the Florentines their lords, by the fauour of *Charles* the eight the French king, yeelded themselues to Countie *Valentine Borgia*, who beeing not able to protect them, they in vaine offered themselues first to the Genowayes, and then to the Venetians: By both which states they being reiected, after that they had for a long time beene most straitly besieged, they yeelded themselues subiects vnto the Florentines their old lords, of whome they easly obtained pardon, and so afterwards continued their good and faithfull subiects. But *Lewes* care of Flaunders, and the last of his house (for after his death that earledom fell into the house of Burgundie) hauing brought the Gantois rebelling against him to such extremitie, as that they were glad to craue of him grace and pardon, would not so receiue them, but propounded vnto them most hard conditions, and not beseeming a free people to accept of: as that they should all come vnto him out of the citie to craue pardon with halters about their neckes; and that then he would consider what he were to do with them. Which put the poore distressed people into such a desperat feare, as that they went out being in number but fife thousand (but all armed with dispaire) against the earle, who then was fortie thousand strong, whome they in a great battell ouerthrew; and so brought vnder their obeysance all the townes of Flaunders, except Audenard. The earle flying out of the ouerthrow hid himselfe vnder a poore womans bed; who afterwards found meanes for his escape, by couering him in an heape of apples: but being so escaped, for euer lost his power, together with his honour. With which so great an ouerthrow giuen, the Gantois became much more arrogant than before, & neuer afterwards willingly endured their princes commands. Whereby it was then perceiued, No more cruell enemies to be found against the prince, than his desperat subiects, Nor any war to be more iust, than that which is by necessitie imposed; as said an auntient Roman Senator. But that the aforesaid warre was such, it is euident & plaine, seeing that together with their most shamefull yeelding, most cruell death did hang ouer all their heads, and a reproach heauier than death it selfe; reproach and disgrace being alwayes more dreadfull vnto men of honourable minds, than most cruell death. But in that time it should seeme, that princes tooke pleasure to encrease their cruelty with reproach and despight against their disobedient and disloyall subiects. For so * *Frederike* the second, the German emperour, to reuenge the iniurie done vnto his wife, with great disgrace at Milan, hauing besieged and taken the citie, after he had put to death the chiefe of the citisens, and rifled and rased the citie, vsed a contumelie and despight towards the rest that had escaped the souldiours furie, as was vnto them more despightful than cruel; & yet worse than death. So *Dagobert* king of France, not cōtented to haue slaine the inhabitants of Poitiers, for ayding his enemy against him, caused also the towne to be rased, and the ground to be plowed with an eternall curse, and salt to be sowne vpon it to make it barren: whereof they are yet called Salted men of Poitiers. But as princes which with sufferance passe ouer the seditions & rebellions of the corporation or communitie of any towne or prouince, giue example to others to doe the

The great mischiefe which befel *Lewes* earle of Flaunders, in seeking to take too sharp reuenge vpon the Gantois his rebellious subiects.

No more cruel enemye against the prince, than are his desperat subiects.

Some princes vnto crueltye to haue also added contumelie, in reuenge of their rebellious subiects.

* This *Frederike* hauing sharply chastised the rebellious *Milla* notes his subiects, afterwards in dispite caused such of them as would haue their liues spared with their teeth to drawe a figue out of a mules taile: whereof greiue the dispiteful mocke yet vsed by the *Italians*, by showing the thombe betwixt two fingers, with these words: *Ecco, la fico*.

- A the like : so those princes also, which without measure exercise crueltie vpon their vanquished subiects, get vnto themselves not onely the title of most barbarous and cruell tyrants, but in so doing sometimes also hazard their whole estates . But hee shall deserue the prayse and commendation of a iust prince, and preserue also his estate, which shall keepe the meane in punishing the authors and ringleaders of rebellions, tempering seueritie with lenitie. As did *Charles* of Fraunce king *Lewes* the ninth his brother : (afterwards king of Naples) who hauing commission from the king, to chastice the inhabitants of Mont Pelier, who had slaine certaine of the kings receiuers & officers : tooke from them all their liberties and priuileges, appointed the walles of their citie to be rased, their steeples pulled downe, and a fine of six score thousand crownes to be set vpon them : or as some write, caused halfe the goods of the citisens to bee confiscated, and of six hundred of them one part to be drowned, another part to bee hanged, and the third part burnt . And so indeed the iudgement was to the terrour of them giuen, and the decree set downe : howbeit that it was afterwards by the good prince moderated, in such sort, as that none but the offenders themselves were executed : for that the kings officers and magistrats had bene so murdered by no publike counsel, or assembly of the citisens orderly called, but by the insolencie of the rash tumultuous people onely . With like lenitie *Charles* the sixt the French king disarmed the Parisians risen vp in rebellion against him, and executing the authors thereof, restrayned the rest of the whole bodie of the citisens, by imposing vpon them a great fine . And admit all the citisens of a citie, by their common consent, and the matter being before well debated, to haue all together with one mind rebelled, and chosen vnto themselves a new prince : Yea and to haue augmented their wickednesse with contumelie and despight against their soueraigne : yet were it not the part (I will not say) of a good prince, but euen of a wise prince, to take reuenge of all of them of whome he might, for blemishing thereby for euer of his fame and reputation ; than which nothing ought to bee vnto a prince more deere : albeit that he might so doe (which yet were a most hard thing) the state of the Commonweale reserved whole . Wherefore *T. Quintius* the Consul did wisely, who when he could not with the safetie of the Commonweale chastice the armie which he then had vnder his conduct and leading, for their rebellious mutinie, after he had appeased all matters, and yet thought it not safe for the souldiours so in danger of the law to returne into the citie, he himselfe came first to Rome, and there by consent of the Senat presented a request vnto the people, *Ne cui militum fraudi esset secessio*, That the mutinous revolt might not be daungerous to any of the souldiours : which he with the great good liking both of the Senat and, of the people obtained. With like wisdom *Scipio Africanus* the father, repressed the mutinie of his army at Seuerone, with the execution of thirtie fiue of the souldiours onely : *Certabatur utrum in authores tantum seditionis xxxv animaduerneretur, an plurium supplicio vindicanda defectio magis esset quam seditio : vicit sententia lenior, ut unde culpa orta esset, ibi poena consisteret, ad multitudinis castigationem satis esse*, Question was (saith *Liuius*) whether execution were to be done onely vpon thirtie fiue, the authors of the sedition : or that so great a reuolt rather than a sedition, were to be reuenged with the execution of more : wherein the milder opinion preuailed, That from whence the offence was begun, there should the punishment rest : and that to suffice for the chastising of the whole multitude . And shortly after in the oration which *Scipio* made vnto the armie, he vseth these words, *Se non secus quam viscera secantem sua cum gemitu & lachrimis xxx hominum capitibus, expiassent octo millium noxam*, Him no other wise but as a man cutting his owne entrails, with sighes and teares to haue made satisfaction for the offence of eight thousand men, with the heads of thirtie . So when *Appius* the Consull (with great rathnesse

Seueritie in punishing of rebellion ought still to be tempered with lenitie.

The wisdom of *T. Quintius* and *Scipio Africanus* in chastising of their mutinous souldiours.

A notable regard to be had in al general and popular punishments.

* Tullie.

That it becometh not a soueraign prince to be the executor or to behold the general execution of his rebellious subjects.

The wise moderation of some great princes in chastising of their rebellious subjects.

The wisdom of Charls the fift in the severitie by him used in chastising the rebellious Gaunties: and in the lenitie by him used towards the Spaniards rebelling against him in Spaine.

should I say, or pride) would by strong hand haue restrained and corrected his armie, then all in a mutinie, he was by the Colonels and captaines staied from so doing: who all with one voice told him, Nothing to be more dangerous, than to seeke by force to chastice them, in whose loialtie and fidelitie the whole force of the empire consisted. And albeit that nothing were to bee feared in the punishing of an whole armie, or of a citie, yet such generall and popular punishments are not to be vsed: but in chastising of such offences, an especiall regard is to be had, *Vt poena ad paucos, metus ad omnes perueniat*, That the punishment it selfe should touch but few, but that the feare thereof should come vnto all; * as an auntient orator no lesse eloquently than wisely said.

Yea moreouer it becometh not a soueraign prince to be the executor or beholder of the execution of such generall punishments; (if otherwise it may bee in his absence done) to the intent his subjects minds should not so be alienated from him: but to the contrarie it is needfull for him with a conuenient lenitie to moderat euen the iust and necessarie seueritie of his deputies and magistrats, to the imitation of *Antiochus* the great king of Asia, who hauing giuen commision to *Hermeas* his constable, to punish the rebellion of them of Seleucia: and he condemning the corporation of the citie in a fine of six hundred thousand crownes, and banishing also a great number of the citizens, and taking away the liberties and priuileges of the citie: *Aniochus* called home againe the banished; and contenting himselfe almost with the tenth part of the fine, restored againe vnto the citie the auntient liberties and priuilegs thereof. But not to goe further, *Henrie* the second the French king, hauing giuen commission to the duke *Mont-morencie* constable of Fraunce, to chastise the rebellion of the countrey of Guyenne, and especially of the inhabitants of Bourdeaux, graunted them afterward a generall patdon, and forgaue them the raising of their towne hall, wherein they had made their assemblies, with the fine of two hundred thousand pound, and the charges of the armie brought against him: in all which the inhabitants of Bourdeaux were by the duke condemned; restoring vnto them also the right and freedome of the corporation of the towne, excepting them only who had laid hands vpon his officers, and some few priuileges and demaines of the towne, which were then abridged and cut off. But the emperour *Charles* the fift, not so cruelly as wisely, by one and the selfe same iudgement, reuenged the often rebellions and injuries which they of Gaunt had of old vsed to doe against his auncestors, and which till then remained vnpunished: partly by the sufferance, and partly through the weakenesse of the earles of Flaunders. For when the citizens of Gaunt had now compelled the Bourgamaister openly to teare in pecces the emperours edicts, and had sent ambassadours vnto *Frauncis* the French king to receiue them with their citie into his protection: and he refusing them, had solicited his other subjects, their neighbours to rebellion: the counsell of Spaine decreed, That the citie should be rased and laid euen with the ground, and all the goods of the citizens confiscated. Howbeit the emperour hauing it in his power, spared the countrey and citie wherein he was borne and brought vp: but executed thirtie of the chiefe authors of the rebellion, tooke away all their corporations and colledges, deprived the citie of part of the publike lands thereunto belonging, as also of all the priuileges; and caused a most strong castle to be there built, and a garrison therein to be kept and maintained, and all at the citizens charge. This the emperours sentence I receiued of them of Gaunt, at such time as I was of counsell to *Frauncis* duke of Aniou, and of the Low countries. And not long after king *Frauncis*, who had refused to protekt the Gantoies going in person himselfe to repress the rebellion at Rochell, raised for the custome of salt, with the maiestie of his speech terrified them of Rochell, and fined them, but yet put no man to death: yea he left vnto the citie the liberties and societies thereof whole, yet

- A** yet protesting himselfe to haue had no lesse occasion to reuenge himselfe than had *Charles* the fift, but that he had rather to encrease his commendation, by sauing, than by spilling of his subiects, and by gentlenesse rather than by crueltie. By these examples before set downe it is well to be vnderstood, what is to bee determined for the punishment of Communities, Corporations, and Colledges: wherein they which affect lenitie, do giue occasion vnto the same citicens oftentimes to rebell: which in a Commonweale is of a prince especially to be taken heed of. In which thing no man seemeth to haue behaued himselfe more wisely than *Charles* the fift. Yet he that seemed to haue bene so seuer against the Gauntois, vsed the greatest lenitie that might bee towards the Spaniards of all sorts, at such time as they had not only rebelled against him, (when he went to take possession of the empire) but also chosen the duke of Calabria for their king, who refused that so dangerous a preferment. Of which so great a multitude *Charles* thought it not good to punish one, and that right wisely: for that in so doing he should haue launced all the members of the Commonweale. For albeit that it is an wholesome thing to cauterise or cut off a mortified member for the preservation of the whole bodie; must we therefore if all the members of the bodie bee in a consumption, or taken with a Gangrenà vse sections or cauterisations? *Hypocrates* the great physitian saith no, forbidding vs to apply remedies to desperat diseases, and so much the lesse, if a consumption shall take hold of the chiefe and principall members of the bodie. Wherefore to conclude this question, if the offence be committed by the council or deceit of a communitie or corporation, that which belongeth vnto such a communitie or corporation so offending, is therefore to be confiscated or forfeited: but if there be no such thing therero belonging that may so be forfeited, then a fine in money is to be set thereupon, but yet to be exacted onely of them which gaue counsell or aid to the committing of the offence: for as much as it could not bee committed by the whole communitie or corporation it selfe: but if the guiltie parties be not to be known from the guiltles, then are they altogether to be fined: but as for any corporall punishment, it is not to be inflicted, except that euerie one of them, and all of them together, haue most grievously offended. Neither yet are they to be thought all to offend, although they follow the ensignes displaid, except that they altogether and euerie one of them apart gaue their counsell or consent thereunto before: but the communitie or corporation being punished, doth not therefore exempt them that are guiltie of the offence committed, from their due deserued punishment.

How a communitie or corporation offending is to be punished.

- But these things being thus declared, concerning the punishments of Communities and corporations: it remaineth for vs to see, whether that a Commonweale can bee without such Communities, Corporations, and Colledges. Wee said at first, men euery where to be, and alwaies to haue bene desirous of the societie and companie of men: and so out of a familiar and naturall societie by little and little to haue growne into a colledge, into a corporation, into a communitie, and so at length into a citie: and so to haue made these empires and kingdomes, which we here in the world see, hauing no surer foundation wherupon to rest (next vnto God) than the loue and amitie of one of them towards another: which can in no wise be maintained, but by alliances, societies, estates, communities, fraternities, corporations, and colledges. So that to demand, whether communities and colledges be necessarie in a Commonweale? is as much, as to demanda, Whether that a Commonweale can be maintained and vpholden without loue and amitie? without which the world it selfe cannot long stand. Which I haue said, for that there haue bene, and yet are some of opinion, That all corporations and colleges are out of a Commonweale to bee excluded and banished; not considering that a familie, and the verie Commonweale it selfe, are nothing else but commu-

Whether a commonweale can be without communities, corporations, or colleges.

nities. Which is an error whereat the greatest spirits haue oft times stumbled; for
 one absurditie or incommodie which ensueth of one good custome or ordinance, wil-
 ling to haue the same custome or ordinance abolished and quite taken away, without
 regard of the great good which otherwise ensueth thereof vnto the Commonweale. I
 confesse that colledges and communities euill gouerned, draw after them many facti-
 ons, seditions, part-takings, monopolies, yea and sometime the ruine of the whole
 Commonweale also: and that in stead of sacred loue and amitie, there ariseth of them
 coniurations, and conspiracies of one of them against another. And that more is, it
 hath bene seene, that vnder the shadow of religion diuers colledges haue couered some
 most detestable and execrable impietie. Whereof no better example can bee giuen,
 than of the fraternitie of the Bacchanals in Rome, which deuised vnder the colour of
 religion, so long couered the most execrable and detestable filthinesse of both sexes,
 vntill that the secrets thereof opened, polluted the citie then mirrour of the world, and
 all Italie with the loathsome sauour thereof, aboute seuen thousand persons beeing
 partly accused, attainted, conuined, and many of them executed and banished,
 for the abhominable villanies by them committed vnder the colour of that religion,
 which hath alwaies the fairest and most glorious show that can bee deuised, to bee set
 vpon a fowle matter; as said *Flaminus* the Consull speaking vnto the people of
 Rome, concerning the impieties by him found out, *Nihil in speciem fallacius praua*
religione; ubi Deorum numen prætenditur sceleribus, subit animum timor, Nothing is
 in show more deceitfull than corrupt religion: For where the maiestie of the gods
 is pretended for the cloaking of villanies, there feare pierceth the mind. Which was
 the cause that the fraternities of the Bacchanals was by a decree of the Senat put
 downe through all Italie: VVhich decree of the Senat confirmed by the people,
 passed into the force of a law, That from that time forward no moe sacrifices should
 bee made by night, but alwayes done in publike: VVhich thing *Damonax* a wise
 Grecian had long time before attempted to persuaide the Athenians of, saying, Those
 night-sacrifices to haue alwaies seemed vnto him verie suspicious. And better it is in
 euerie Commonweale openly to suffer whatsoever assemblies or sacrifices to bee
 done by day, in the sight of all the people, then nightly assemblies to bee made vnder
 the colour of religion. VVhereof *Cato* the Censor most grievously said, *Ab nullo*
genere non summum periculum est, si catus, & consilia, & secretas consultationes esse si-
nas, There is no sort of men from whom the greatest daunger is not to bee feared, if
 you shall suffer conuenticles, and secret counsels and consultations to be kept amongst
 them: VVhich can so much the lesse be auoided, when as the false opinion of religion
 is pretended for to colour villanies. For that there is no conspiracie, which may not
 be contriued and made in such secret assemblies: which growing by little and little,
 and not perceiued vntill they bee growne great, at length bursting like to a rotten im-
 posture, infecteth the whole bodie of the Commonweale. As for prooffe thereof
 in our remembrance, whereas there haue alwaies bene many conuenticles and mee-
 tings of seditious persons, vnder the pretended show of religion, so a more daunge-
 rous companie of filthie fellows neuer more sodenly in any place brake out,
 than did that of the Anabaptists in Munster, the chiefe citie of VVestphalia,
 who there secretly multiplying, vpon the sodaine tooke vp armes, and by the lea-
 ding of a Taylour draue out the bishop and magistrats, and so possest the citie
 wholly to themselues, which could not bee againe recouered from them, nor
 those phantasticall seditions repressed, but by a strong armie of the whole German
 enpire. The Colledges and Fraternities of the Pythagorians dealt more moderatly in
 Italie, who professing the studie of wisdom, and hauing drawne vnto them
 so

Great harms en-
suing of corpo-
rations or com-
munities euill
gouerned.

Religion the
fairest cullour
for a fowle
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Nightly conuen-
ticles vnder the
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gion suspicious
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Commonweale
daungerous.

- A** so many disciples, as that many the greatest lords & princes, both of Italie and Greece, moued with the admiration of their doctrine, were now become both their auditors and followers: they bearing themselves thereupon, went about to haue euerie where ouerthrowne the popular estates, and tyrannicall governments, and for them to haue established Aristocracies, and the governments of wise men. But that their so good a purpose was ouerthrowne by certaine ambitious and popular men, who setting the people in an vprore with fire and sword, destroyed all the Pythagorians. Which (as saith *Polibius*) troubled almost all the estates both of Italie and of Greece. And for this cause the emperours, and almost all other princes, popes, and counsels, giuing the Iews leaue to haue their meetings & synagogues (which *Tyberius*, *Claudius*, & *Domitian*) the emperours, had of antient time taken from them) commaunded yet, That they should alwaies do their sacrifices, and haue their prayes openly, and in publike. Which libertie *Pharao* king of *Ægypt* (terrified with the iudgements of God) would haue also graunted them, but was by *Moyse* refused, alleaging, That it was to be feared least the *Ægyptians* should ouerwhelme with stones the Iewes, vsing a strange religion, and by the lawes of the countrey forbidden. And to say the truth, it is a thing most hard and difficult to maintaine colledges or corporations in a Commonweale of what religion soeuer, either publikely or priuately, being contrarie to the religion of the people, or of the greater part of them: For that the people euery where most iealous of their religion, cannot but most hardly endure any rites and ceremonies, differing from the religion by themselves generally received: neither are by the lawes, or by the magistrats commaund, or bands of men so to be restrained and kept in, but that their rage will oftentimes most furiously breake out, not against the weaker sort onely, but euen against the most mightie ones also. For so *Thomas* emperour of Constantinople, pulling downe the altars and images of the saints, was by the angrie people most cruelly slaine in the verie temple of saint *Sophia*. We haue also scene in the citie of Franckford foure corporations and colledges of diuers religions, to haue bene publikely allowed and exercised, namely those of the Iewes, of the Catholikes, of the Protestants, and of the Confession of Geneva: But it so fell out in the yeare 1562, in the moneth of May, that the Protestants assuring themselves of the strength of their partakers, fell vpon them of the Confession of Geneva, (who in their profession came neerest vnto them) and bearing with the other which more differed from them, caused that of the Confession to bee there vnterly forbidden. Which is lesse to be feared in such religions and sects as haue bene of auntient time received, and which as it were in their owne right defend their profession: such as is the religion of the Iewes, from which all other religions, except *διαβολο λατρεία*, seeme to haue taken their beginning: which *Chrysostome* therefore calleth The mother of the Gentiles: the princes of Europe and of Barbarie hauing alwaies granted vnto the Iews, their antient priuileges, corporations, & colledges, for the exercising of their religion, in paying vnto them certaine tribute, as they did vnto the Roman emperours, which was called *Aurum Coronarium*; which the German emperours ordinarily giue vnto the emperices, for the confirmation of the Iewes priuileges, which are yet greater in Polonia and Lituania, than in any other place of the world, since they were by *Cazimir* the great king of Polonia graunted vnto them, at the request of a Iewish ladie, called *Hester*; such as had of antient time by a Persian king bene vnto this nation giuen, at the instance of another Iewish ladie of the same name. Where they so mightily encreased, as that there was no prince in the greater Asia, which had not in it one or other Collonie of the Iewes, as we read in *Iosephus*, and *Philo*. Wherefore the most auntient antiquitie of that the Iewish religion, together with the great pouertie of the Iewes themselves, who in no place of the world may possesse

The common people hardly to endure any religion contrarie or repugnant to their owne.

The Iewes, and Catholiques by the protestants borne within Franckford, and they of the confession of Geneva forbidden.

any lands, maketh that they need the lesse, and are indeed the lesse able to fight for their religion and libertie. F

But it may be, that the consent and agreement of the nobilitie and people in a new religion or sect, may be so puissant & strong, as that to repressse or alter the same, should be a thing impossible, or at leastwise maruelous difficult, without the extreame perill and daunger of the whole estate. In which case the best aduised princes and gouernours of Commonweales do imitat the wise pilots, who when they cannot attaine vnto the port by them desired, direct their course to such port as they may: Yea and oft times quite chaunging their course, giue way vnto the stormes and tempests, least in seeking too much to put into the desired haven, they suffer shipwracke. Wherefore that religion or sect is to be suffered, which without the hazard and destruction of the state cannot be taken away: The health and welfare of the Commonweale being the chiefe thing the law respecteth. Wherefore *Constantine* the emperour suffered the companies and colledges of the *Arrians*, not so much for the loue and affection he bare towards them, as diuers haue written: but so in quiet to prelerue his subiects, and estate. And *Theodosius* the Great being himselfe a Catholike, and alwaies contrarie to the *Arrians* opinion, yet bare with their religion, which hee could by no meanes suppressse, maintaining both the one sort and the other in peace and obedience. And after him *Zeno* the emperour, to reconcile the companies of all sorts of religions among themselves, and together with the Commonweale, commaunded an edict, which they called *Evotinov*, which is to say, of vnion and tranquillitie or quietnesse to be published. After whose example *Anastasius* caused the law of forgetfulnesse to bee set forth, cherishing the graue and modest preachers, and remouing such as were of vehement and turbulent spirits. G

And yet no doubt, but that a prince fauouring one sect or religion, and disliking another, may if he will without force or constraint, or any violence at all, suppressse that which he liketh not (except it be by the hand and power of the almightie supported) & that by keeping the maintainers thereof from all preferments and places of command; and by shewing himselfe in deeds rather than in words, to abhorre that religion which he desireth to haue extinguished. For the maner of men is, to loue such things as their princes embrace: and minds resolu'd, the more they are crossed, the stiffer they are, which otherwise of themselves grow weake and feeble, if they be not at all resisted. Besides that, there can be nothing more daungerous vnto a prince, than to make prooue of his forces against his subiects, except he be wel assured to preuaile against them: which otherwise were but to arme a lion, and to show him his clawes wherewith to teare his master. But if the wiser sort of princes do in the varietie of religions right, hardly keepe the concord and vnite of their subiects: what then is to be hoped for of such princes, as haue no experience of gouerning of the state, on euerie side beset with their flatterers? pressed by their false enformers, thrust forward by their furious followers: aiming only at this, how to fill themselves with other mens wealth and blood. So in the beginning of the Primitiue Church, vnder the first emperours, so many grosse and impudent calumnies, and slaunderous reports, were deuised and put in writing against the *Christians*, for the taking away of their assemblies and meetings, as the like whereof were neuer before deuised, and would indeed seeme incredible, were they not yet in writing extant. As witneseth *Anaxagoras* the orator, in his apologie to *Antoninus*: *Tertullian* in his apologie for the *Christians*: and *Origen* against *Celsus*, certaine of whose writings are yet extant. Whereby it is to be vnderstood, that it was commonly objected vnto the *Christians*, that they were Atheists, irreligious contemners of all gods, incestuous murtherers: and such as in their secret assemblies and meetings vsed

That a sect or religion grown so strong, as that it cannot without the extreame perill of the state and commonweale be altered, is of a wise prince to be suffered.

How a prince fauouring one sect or religion, and disliking another, may without force or constraint suppressse that religion he disliketh, and aduance the other which hee better liketh of.

A dangerous practise of such as are neere vnto great princes: to deuise false calumnies against the professors of any religion, so to bring them into hatred, and to enrich themselves with their wealth.

- A** to kill yong infants conceiued of their mutuall incests, and after that they had so killed them, to eate them. Which thing indeed *Epiphanius* reporteth of the heretiques called *Gnostics*: as that they should in their meetings beat in a morter their new borne children, begotten in incest, with the yeolkes of egges, flower, honie, and certeine spices mingled together, and so to make cakes of them, and to bake them, and eate them: and that to haue beene with them accounted a sacrament of the bodie and blood. Which slaunders so falsely objected against the Christians, might seeme altogether incredible, if in the time of our auncestours the like accusation had not beene commenced against the Templers, *viz.* vnder the raigne of *Philip* the faire; for which the Colledges in Fraunce before graunted vnto the Templers, at last by a decree of pope *Boniface* the viij were taken from them, the master with a great number of his fellowes most cruelly burnt, and the order quite suppressed. All which for all that, the Germans by their writings haue since showed to haue beene but a malicious false accusation, inuented for the taking away of their great lands and wealth from them. The like practise was also vsed against the Corporations and societies of the Iewes, aswell in Fraunce vnder *Dagobert*, *Philip Augustus*, and *Philip* the long: as afterward in Spaine vnder *Ferdinand* king of Aragon and Castile, who of a mercilesse deuotion driue them quite out of their countries, and enriched themselues with their goods, it being giuen out, that they had crucified boyes, and poysoned wels with the blood of their leproous persons.

The Templers
falsely accused,
and for their
great wealth
wrongfully sup-
pressed.

The Iewes in
like manner
wronged.

- C** Wherefore, to discide the question before propounded, as whether Communities, Corporations, Societies, and Colledges be good in a Commonweale, or no? or that the Commonweale may well be without them? Truly in mine opinion nothing could euer haue beene deuised mote effectually or better for the keeping & maintaining of popular estates, or for the ouerthrow of tyrannicall governments, than corporations and societies: For why, the Commonweales and estates being one vnto an other contrarie, doe by quite contrarie meanes both mainteine and ruinate themselves. And therefore the people and popular estates, accept and embrace all manner of communities, corporations, and colledges; as we said that *Solon* did, in establishing the popular estate of Athens. All which tyrants in their tyrannicall governments seeke vtterly to ouerthrow, as well knowing, the vnitie and amitie of subiects among themselves, to be the tyrants inenitable ruine and destruction: the iust royall, and Aristocraticall estates, euen for the same reasons still holding the meane betwixt both, neither accepting nor reiecting of all communities and colledges, but admitting onely such as they see needfull for the state and Commonweale; which with good lawes and orders they still keepe within the compasse of due tie and obedience: The good king *Numa* was the first that ordained Societies and Fraternities of artificers and men of occupation; and so *Tarquin* the proud was the first that tooke them away, and that forbid the assemblies of the people, and that had in himselfe a purpose also to haue suppressed the bodie of the Senat, by the death of the Senatours, not suffering any new to be chosen in the roomes of them that died. But he was no sooner by his subiects driuen out, but that the popular estate was established, the number of the three hundred Senatours supplied, and the colledges and companies before abolished againe restored. But when the people by the helpe of their Tribunes began more insolently to rule, and that in the bodie of the Senat were almost six hundred of the nobilitie and chiefe men of the citie, who had almost drawne vnto themselves the soueraignie, the colleges, and companies of the citifens, were by a decree of the Senate, for the most part suppressed and put downe: Howbeit shortly after *Clodius* the Tribune to be the more gracious with the people, and to maintaine them in iarte and discord with the nobilitie (which

Communities,
Corporations,
and Colledges,
necessarie in
euery Common-
weale, but espe-
cially in a po-
pular estate.

(which he had renounced, causing himselfe to be adopted by a base fellow, so to become Tribune) not onely restored all the Colleges and companies by the Senat before suppressed, but ordained and erected a great number more: which *Cæsar* being got to be Dictator, to maintaine his owne power and weaken the peoples, put downe; but were afterwards by *Augustus* hauing assured his estate, by an expresse edict againe restored. All which *Nero* the tyrant againe suppressed. Whereby it appeareth, Tyrants alwaies to haue hated the corporations and communities of the people, and by all meanes endeouored to haue them vtterly extinguished: Insomuch that *Dionysius* the tyrant of Sicilie would not that euen neere kinsfolks should so much as visit one another; but as they came late from supper from their friends, caused them to be robbed and spoiled. As in like manner did *Nero*, who oft times by night walking the streets, spoiled and slew such as he met, which returned late from supper with their friends; so much he feared the assemblies of his subiects, for the conspiracies they might so make against the tyrannie of him so wicked a prince. And yet for all that the iust Monarchie, hath not any more assured foundation or stay, than the Estates of the people, Communities, Corporations, and Colleges: For if need be for the king to leuie money, to raise forces, to maintaine the Estate against the enemye, it cannot be better done, than by the estates of the people, and of euery Prouince, Towne, and Community. Yea we see that they themselues which would haue these estates of the communities and societies of the people suppressed and abolished, haue in time of their necessity no other refuge or stay to flie vnto, but euen to these estates and communities of the people: which being together vnitied, strengthen themselues for the defence and protection, not of their Prince onely, but euen of themselues also, and of the whole estate and subiects in generall, especially the Prince himselfe there being in person present. For where can things for the curing of the diseases of the sicke Commonweale, or for the amendment of the people, or for the establishing of lawes, or for the reforming of the Estate, be better debated or handled, than before the prince in his Senat before the people? There they conferre of the affaires concerning the whole bodie of the Commonweale, and of the members thereof; there are heard and vnderstood the iust complaints & greouances of the poore subiects, which neuer otherwise come vnto the princes eates; there are discovered and laid open the robberies and extortions committed in the princes name; whereof he knoweth nothing, there the requests of all degrees of men are heard. Besides that, it is almost a thing incredible to say, how much the subiects are eased, and how well they are also pleased, to see their king to sit as chiefe in the assemblee of the estates, and to heare him discoursing; how euery man desireth to be seene of him, and if it please him to heare their complaints, and to receiue their requests, albeit that they be often times denied the same; yet O how it pleaseth them to haue had accesse vnto their Prince, yea sometime they goe away better pleased with such a deniall, than if they had had that they requested, being by their prince altogether contemned. All which is better obserued and kept in Spayne, than in any place of the world, where the assemblies of the estates heretofore haue bene holden euery two or three yeares one. And in England also, for that the people graunt no payments, if the Estates be not assembled: as I remember was done, when as I passed ouer into England embassadour from *Frauncis* duke of Anjou. Our kings do not so often call together the assemblies of their estates, as doe the kings of England. But whereas there are accounted sixteene Prouinces in this kingdome, whereof six haue their particular assemblies among themselues, (namely Bretagne, Normandie, Bourgundie, Languedoc, Dauphine, and Prouence) some there were, who for feare their villanies and extortions should in those assemblies haue bene found out, laboured to the ytermost

of

Communities,
Corporations,
and Colleges,
alwaies hatefull
vnto Tyrants.

The great benefit
and vse of Com-
munities, corpo-
rations, and col-
leges, in a iust
Monarchie or
royall estate.

- A** of their power to haue had the same assemblies and meetings of the Estates of the aforesaid prouinces, in any wise taken away and changed into elections. As also in the beginning of the raigne of *Charles* the eight, at such time as it was with one generall voice called vpon, that a generall assemblie of all the Prouinces might be had; there wanted not some who threatned it to be Treason to such as in the counsell should consent with the people for the calling of such an assembly: whose opinion *Philip de Commines* (a most worthy counsellour and a man of great experience) most earnestly withstood. But how necessarie the assemblies & meeting of the whole people for to consult of matters, are, is hereby perceiued; in that the people which may so call together such their counsels, with them all things go well: whereas others which may not so do,
- B** are oppressed with tributes & seruitude. For as the shot of many pieces of artillerie deliuered one after another, is not of so great force and power for the battering of a fort, as when the whole tyre of the great ordinance is together discharged, so the particular requests of men often times vanish but into smoake. But when whole Colleges or Communities, or the estates of a prouince, or of a people, or of a realme, shall make their requests vnto their king; the voice is so loude, and the requests so effectually, as that it is hard for him to refuse it. Howbeit that there is a thousand other commodities & vses of the generall assemblies of the Estates in euery prouince and countrie, for the common good therof. As if question be for the leuying of forces, or of money to withstand the enemy; or for the building of fortresses, for the mending of high waies, repairing
- C** of bridges, or for the scouring of the countrie of theeuers, or withstanding of the great; all these things which can in no wise be done by particular men, are best of all performed by them all in their generall assemblies. As to passe over the rest, all these things haue bene better done in the prouince of Languedoc by their assembled Estates, than in any other prouince of this Realme. They within a few yeares erected a Schole, and appointed twelue hundred pounds yearly pension for the instruction of all the youth of the countrie. In the Towne of Nismes, beside the other particular Colleges, they built the fairest fortresses of this realme; and caused *Buzac* to be executed, the most notable robber that euer was in our remembrance, of whom neither judge, nor magistrate, no nor yet the parliament of Thoulouse it selfe, could take punishment, he being growne so strong as to doe his robberies in forme of iustice, and yet no man so hardie as to dare to lay hands vpon him: of whose execution I was a beholder, & saw the people wonderfully reioycing to see themselves deliuered of a theefe and robber, of all others the greatest: albeit that I remember ten thousand crownes to haue bene before laide out about the same matter. And to keepe that prouince the safer from theeuers & robbers, they appointed farre greater rewards for the Prouost Marshall, than did any other prouince, as twelue hundred pound for his maintenance, and xxv pound for euery processe he should bring of the execution by him done. I haue bene willing in passing by, thus the rather to note these particularities, to show the great good which ariseth vnto Commonweals by the assemblies of their Estates: which are yet better ordered in the
- E** Commonweals of the Swissers, & the Germane empire, than in other the Commonweals of Europe. For the Swissers beside the assemblies of Estate, in euery Towne and Canton, haue their generall assemblies of their Estates also; and the ten Circles or Circuits of the Empire haue their assemblies of their Estates separate, vnto whom the particular estates of the Imperiall Townes & Countries referre themselves: and so likewise the estates of the circuits refer themselves and their decrees vnto the assemblie of the estates of the Empire, which without this pollicie had long ago bene ruined & fallen.
- We said that the meane and measure which is in all things commendable, ought also to be kept in all iust Monarchies and Aristocracies, in regard of the number of

The generall assemblies & meetings of the people to consult of matters, necessarie for the good of the Common weale.

Buzac a notable theefe and robber.

A measure to be had for the number of Corporations and Colleges in a Commonweale.

That it is better
for the Com-
monweale, that
men of one trade
or occupation
should be diui-
ded into diuers
streets, and quar-
ters of the citie,
then to dwell all
in one street to-
gether.

Corporations and Colleges to be had in their kingdomes and Commonweales : For as quite to take away all Corporations and Communities were to weaken or ruinate the estate, and to establish a barbarous tyrannie, or tirannicall gouernment; so likewise to permit and suffer all assemblies, and all fraternities, is not also without danger, as not easely to be ruled by the princes power, or nobilities commaund. In them also oft times are couered conspiracies, and secret Monopolies, whereof we haue many examples, which hath bene the cause often times by expresse Ediēt in this Realme to take away these fraternities; which for all that could neuer yet be put into execution. Howbeit much better it were to take away the abuse, than the thing it selfe that is abused, and to pluck vp the weeds alone, rather then both the good and bad together. And to auoid Monopolies amongst artificers and trades men, it is good to diuide them into diuers streets and quarters of the citie, and not to seat them in one street or quarter together, (as they do in Affricke, and also in many townes and cities of Europe) except the place for the hauing of water, or some other such common respect so require: For besides the incōmoditie that it is in great cities not to haue artificers which are ordinarily required in euery quarter thereof, there must needs either be secret monopolies amongst them so to sell their marchandize and wares the dearer, or else iealousies and quarels, if one of them shall sell better cheap than another, before his face that hath refused to take the money. I said artificers ordinarily required, for that it is not fit in their dwellings to mingle men giuen vnto their studie and quiet, together with Fishmongers, or Armourers, or Curriers with Schollers: for as for such as are lesse requisite as hammermen, they may well enough be raunged in the same street or quarter of a citie together, and that better than to trouble the quiet of others. But as there is nothing better for the maintenance of the strength and vnitie of the subiects, than Corporations & Communities: so is there nothing which can so much weaken & keepe vnderfoot a Commonweale, as by the viter taking away of Communities, Corporations, and Colleges, or Societies: Which the Romans well knowing, wisely put in practise, who after they had vanquished the kings of Macedonia, and conquered the countrie, viterly forbid all assemblies and meetings together of the people there to consult of matters. And so afterwards also the Achæans being overcome, the consul *Mummius* as saith *Liuius*: *Concilia omnia singularū Achaia nationum, & Phocensium, & Beotorum, aut in alia parte Graeciae deleuit*, Suppressed all the counsels of all the particular nations of Achaia, and of the Phocensians, and of the Beotians, or in what soeuer other part of Graecia else: But after that they were once become good and obedient subiects vnto the Romans: *Antiqua concilia genti cuique restituta*, The auncient counsels were vnto euery nation againe restored, as saith *Strabo*.

CHAP. VIII.

¶ Of the orders and degrees of Citizens.

A conuenient
and decent or-
der to be in all
things fit and
requisite.



Now forasmuch as we haue already spoken of Corporations and Colledges, it remaineth for vs also to speake of the orders and degrees of Citizens. For if so be that in all things wee desire and seeke after a conuenient and decent order, and deeme nothing to be more ougly or foule to looke vpon, than confusion and broyle: then how much more is it to be sought for in a Commonweale, so to place the Citizens or subiects in such apt and comely order, as that the first may be ioyned with the last, and they of the middle sort with both; and so all with all, in a most true knot and bond among themselues, together with the Commonweale? For why, it is a most auncient

A tient and receiued opinion of the wise, Almighty God himselfe the great and supreme workemaster and creator of this great and wonderfull Fabrick of all things, in the creating thereof, to haue performed nothing either greater or better, than that hee diuided the mingled and confused parts of the rude *Chaos*, and so settled euerie thing in his due place and order. Neither can there be any thing fairer to behold, more delightfull to the mind, or more commodious for vse, than is order it selfe. But they which goe about so to make all subiects or Citizens equall one vnto another in dignitie, order, and place, as that there shall be nothing in a Citie or Commonweale first, or in the midst, but will haue all degrees so mingled together and confounded, without respect of sexe, age, or condition; they seeme to mee to do as they doe which thrust barley, wheat, rise, mill, and all other kind of pulse into one heape together; whereby they loose the vse both of euerie kind of graine in particular, as also of the whole heape together. Wherefore there was neuer any law, giuer so vnskilfull, but that he thought that there ought still to bee some diuision, ordering, and sorting of the Citizens or subiects in a citie, or Commonweale. Here by ordering and sorting of the Citizens or subiects, my meaning is, that there should be a part of the citizens diuided from the rest in condition, state, or sexe: in condition, as the nobilitie from them that were but from the Senators descended; the knights and gentlemen, from the common people: in sexe, as women from men; in state, as free borne men from them which are but of manumised slaues made free; and they which are by state free, are diuided from them both.

C As for slaues we haue before said, them by the generall consent of almost all people, to haue bene still exempted out of the number of Citizens. Yea *Aristotle* hath tearmed slaues, but instruments for other mens vses; whereas some others haue accounted of them, but as of beasts, or rather worse: and yet the question resteth vndecided, Whether that slaues are to be accounted in a mans goods or substance, or not. But if the determining hereof might be vnto me referred, surely I should wish the right and libertie of the citie to be set open, as well vnto the slaues as vnto the free borne men. For what is this so arrogant temeritie (should I say) or impietie of men, that forgetting mens condition and state, they should enforce this so diuine a creature, hauing his libertie shamefully taken from him, not onely to serue their lust, but also to make no more account of him, yea and peraduenture lesse too, than of a verie beast? But bee it that slaues be indeed of the basest sort of men, do they therefore not deserue to be tearmed by the name of citizens? There be in mans bodie some members, I may not call them filthie (for that nothing can so be which is naturall) but yet so shamefull, as that no man except he be past all shame, can without blushing reueale or discover the same: and doe they for that cease to be members of the whole bodie? The feet themselues, with perpetuall labour hold vp and carrie about the whole bulke of the bodie, and are oft times foule with dirt, filth, and dust; but yet who is so mad, as to thinke them therefore worthy to be cut off from the bodie? Now if these baser members indeed bee and are still called parts of the whole bodie, why shall wee not by the same reason suffer slaues, who are still pressed and kept vnder with the most heauie burthens and commaunds of the other citizens, to bee called and accounted members of the same citie with them? But if we thinke this to be an absurd thing, then are they to bee driuen out of the citie, and as rotten limmes to be cut off: but if we will still retaine them in a citie, in a familie, and so in our obedience and seruice, we must also make them partakers of the citie with vs. For seeing they be subiects and not straungers, they must needs make vp a part of the citizens, and bee accounted in the number of them. Which I would haue vnderstood to be of me so spoken, not for that I should desire slauerie long since taken away out of our Commonweale, to be thereinto againe restored: but

Slaves accounted no citizens and yet indeed worthe to be so reckoned of, though in the lowest and basest degree of citizens

that forasmuch as the force and boldnesse of men is so farre broken out, as that wee see
 seruitude and flauerie by litle and litle to creepe in, and to returne againe: it might be
 forseeue and provided for, that such slaues might not hereafter bee more hardly vsed,
 than the state and condition of man requireth; and might also haue their certaine place
 and order in the citie. Wherefore let the order of slaues bee of all others the lowest
 in degree in a citie; and of them wee will begin first to speake. For as for that which
Cicero obiekteth vnto *Antonius*, That he had so contracted affinitie, as that hee might
 thereby the better commend himselfe vnto them that were of the meanest degree: hee
 ment it by them which had bene manumised men, and not by the slaues indeed: for
 that in the citie Rome, slaues indeed had neither place nor degree. Neither did *Metel-*
lus his speech concerning marriages to bee made in degrees together belong vnto
 slaues, to whome the rites and rights of marriage were altogether forbidden, hauing
 onely their mutuall conuersing and companie one of them of another; as *Paulus* the
 lawyer writeth in the second booke of Sentences, albeit not altogether aduisedly, for
 that they held the right of blood, as did other citiseus, and were forbidden incestuous
 marriages as well as others; although that they had not the other rights of marriages.
 And for that slaues were oftentimes borne of vncertaine fathers, their children were al-
 so accounted vncertaine: and therefore slaues and manumised men were not said to
 be of any familie, stocke, or house; onely they which were of the nobilitie descended,
 boasted themselues to haue stocke, or house from whence they came. Hereof came
 that speech of *Decius* against them that were descended from the nobilitie, *Semper ista*
audita sunt, vos solos gentem habere: an hos, si Claudie familie non sim, nec ex Patricio san-
guine ortus, sed vnus Quiritium quilibet, qui modo me duobus ingenuis ortum sciam, reti-
cere possim? These things haue alwaies bene heard, you alone to haue a stock & house,
 But if I were not of the house and familie of the Claudians, neither borne of noble
 blood, but some one of the common people, which but knew my selfe to bee borne of
 two free borne persons, could I in this hold my peace? Whereby he sufficiently insi-
 nuateth neither slaues nor manumised men to haue had any stocke or house from
 which they might account themselues descended: and them onely to haue bene ac-
 counted so to haue, which had their beginning from them that were free borne: and
 hereof it commeth that we call such as be nobly borne by the name of Gentlemen, as
 hauing an house or familie from which they are descended. Howbeit that they which
 were so nobly borne, went yet further, vaunting them onely to haue an house and fa-
 milie, from which they might produce their discent, none of whose auncestors had at
 any time serued as slaues: For why, the multitude of the vulgar and common sort of
 the people, was thought almost all to haue taken their beginning from such as hauing
 bene slaues, were by manumission become free.

Next vnto slaues are they whome they call State-free men, and after them the Li-
 bertines, or as we may tearme them the manumised men, who were euery where of
 diuers sorts and condition, as there were also diuers sorts of slaues. And to let other
 cities passe, wee see in Rome to haue bene foure sorts or kinds of these Libertines, or
 enfranchised men; viz. those whome they called *Romani*, *Latini*, *Iuniani*, and *Dediti-*
cij: whome for that they be vsuall and common, I let them passe: sufficeth it as it were
 with the finger to point out the fountaines of them, least in a citie these diuers orders of
 enfranchised or manumised men might bee together confounded. Now the order
 or degree of state free men, was in a meane betwixt slaues and the Libertines or ma-
 numised men, for in that their libertie was yet holden in suspence, they were in better
 case and condition than were the slaues, and yet withall in worse than were the liber-
 tines, or men already enfranchised. And these orders euerie one of them accord-

ding

Why we call
 such as be noble
 borne by the
 name of gentle-
 men?

Foure kind of
 libertines or of
 manumised men
 in Rome.

State free men
 better then slaues
 and worse then
 libertines.

A ding to the qualitie of their condition and state, were also likewise in their degrees placed.

The rest of the citisens are diuided according to the varietie of their conditions and estates, and diuersitie of their manners and customes. Yet that is common almost to all people, that noble men should in order and dignitie be diuided from the vulgar and common people, since first *Nimrod* the great robber, most notably attended vpon with a great power of wicked companions, and such as himselfe was, with cruell seruitude oppressed them that were too weake for him, and so first tooke vpon him the gouernment of the *Assyrians*, as we haue before said. So left his nobilitie got by villanie, for his posteritie to imitat: which opinion further spreading, tooke such deep root, as that euerie man as he was the mightier in violence and murdering of others, hee was thought to be so much more the nobler: vntill such time as that the people by good lawes and ciuilitie better instructed, deemed, that the true nobilitie, was by vertue and not so by villanie to be sought for.

The nobilitie alwaies diuided from the vulgar and common people.

The first nobilitie grounded vpon violence and oppression.

True nobilitie grounded vpon vertue.

But forasmuch as one man excelleth another in some one or other vertue: and for that such vertues as are in one citie or place most highly commended, are in some other no lesse contemned. Hereof it commeth, that no one definition of nobilitie could euer yet be made agreeable vnto the nobilitie of all the people: honour and infamie being still deemed and reputed of, according to the manner and custome of euerie countrey. For by the customes of the *Perusines* and *Florentines*, he which but now began to beare arms and serue in warre, was of one before vnnoble, now thereby become noble: whereas with vs he is not so by and by: but if his posteritie shall follow the wars, they are reputed to haue gotten nobilitie as it were by the continuance of time. But not so at *Venice*, who still measure the nobilitie of their gentlemen, by the honourable antiquitie of such houses and families as haue alwaies attended their publike counsels and affaires. And albeit that the *Decurions* or pettie capitaines by the *Roman* law, bee reputed of by the name of gentlemen: which law is also receiued with them of *Poitiers* by the consent of all the three estates, yet is it no where els with vs, so found. But that the bearing of armes should of it selfe make a gentleman, I see it to haue so pleased not onely the *Florentines* and *Perusines*, but diuers interpreters of the law also, and especially *Alciat*, who hath not doubted to cite *Triuultius* the great capitaine as author thereof. Truly amongst the *Aegyptians* it was not lawfull but for the *Calasfyes*: and many worlds of yeres after, for the *Mammalukes* in the raigne of the *Sultans*, to serue and beare armes: who therefore enioyed most great priuileges. Yet other people haue diuided gentrie from warre, neither haue therefore reputed any one to be a gentleman, for that he was a souldiour: vnto which opinion all the greatest lawyers together with *Plato* haue almost with one voice consented. And albeit that the *Romans* farre exceeded all other people in martiall honour, and bestowed the greatest priuileges vpon souldiours: yet for all that they bound not gentrie vnto martiall seruice: seeing that it was lawfull for the *Libertines* or manumifed men to serue in the warres, and that men for the filthinesse of their liues, and iudgements, therefore vpon them passed, infamous, who were therefore embarred from all honours, had yet no exemption from the warres.

Nobilitie in diuers places diuersly accounted of, and neither in all places alike.

Whether the bearing of armes in the warres make a man therefore a gentleman or not?

But forasmuch as all citisens after they had taken vpon them the manlike attire, were bound to beare arms, so by that reason all the citisens should haue bin thereby ennobled, which were a thing absurd: for were all the citisens noble, none of them were indeed in that vulgaritie of nobilitie to be accounted at all noble. Wherefore *Lucius Siccinius Dentatus* is of *Dionysius Halicarnassens*, called a common and ordinarie man, whose speech against them of the nobilitie and gentrie is yet at this present extant:

Lucius Siceius Dentatus, a most worthie and famous souldiour, and yet not therfore accounted any gentleman.

Whom the Romans first accounted a gentleman.

The Patritij who they were in Rome.

The Equites or gentlemen in Rome what place they held.

Wherein he boasteth himselfe to haue bene in pay fortie yeares in the seruice of his country, to haue fought in an hundred and twentie set battels, to haue receiued 45 wounds, and twelue of them in one day, all of them in the fore part of his bodie: and in token of his good seruice, to haue receiued fourteene Ciuic or oken crowns (the honourable rewards due vnto him that had saued so many citisens) three others the rewards of his good seruice done in the besieging of townes, fourescore and three gold chaynes, an hundred and threescore bracelets of gold, ten faire launces, and thirtie fine faire furnitures for horses. And yet this so worthy & valiant a man, adorned with so many trophies in reward of his valour, was by the Roman lawes no more but as a common person. For they accounted him first a gentleman, that was the sonne of a new raised man: and him they called a new man, who was the first in his familie that had borne some honourable charge or office, and so had power to erect vnto himselfe his statue or image; such as were *Caius Marius*, and *M Tullius Cicero* of Arpine, both of them beeing but new men. Of whome the one beeing first made Quæstor, and then *Ædilis*, and afterwards Pretor, at last came to bee Consull; who in the time of his Consulship, in an oration which hee made vnto the people, boasting therein of his newnesse, thus said, *Ego nouus homo primus omnium claustra nobilitatis refregi, &c.* I beeing but a new man, was of all others the first which brake open the battres of nobilitie. The other hauing beene seuen times Consull, in an oration which he made against the nobilitie, said, *Contemnunt nouitatem meam, ego illorum ignauiam: mihi fortuna, illis probra obiectantur. Quod si me iure despiciunt, faciant idem maioribus suis, quibus uti mihi nobilitas ex virtute capit. Nunc videte quam iniqui sunt: quod ex aliena virtute sibi arrogant, id mihi ex mea non concedunt: scilicet quia imagines non habeo, & noua nobilitas est, quam perperis melius est, quam acceptam corrumpisse*, They contemne (saith he) my newnesse, I their cowardise: my fortune is to mee obiected, but vnto them their vices. But if they therefore of right contemne and despise me, let them so also doe their owne auncestours, whose nobilitie begun of their owne vertues, as doth mine. Now but see how partiall they are in their owne cause; that honour which they arrogat vnto themselues by other mens vertues, that they will not graunt vnto me for mine owne: and all forsooth, because I haue no images of mine auncestours to show, and for that my nobilitie is but new, which yet is better for me to haue of my selfe raised, than hauing receiued it from mine auncestors, to haue my self stained the same. For *Cicero* had six competitors in his Consulship, wherof two were noble men, two oither of them were the first of their familie which had borne office, onely *Cicero* himselfe was a gentleman borne: whose father, as also the father of *Marius*, of *Cato* the Censor, of *Q. Pompeius*, of *Curius*, of *Philo*, and of *Genutius*, were all base persons of the comminaltie, but yet their sonnes were accounted of as new men and gentlemen. But such as were descended from the Senators, by *Romulus* in the beginning of his raigne appointed, or from them which were afterwards by the Consull *Publius Valerius* ioyned vnto them, were called *Patricij* (as hauing their beginning from the Senators, whome they called *Patres*) all the rest were common men, or else men of some better note, whome they called *Equites*, or Gentlemen; who were in the midst betwixt the Senators & the cōmon people, being partly dissended from the Senators, and part of them risen out of the comminaltie: who if any of them were chosen into the Senat, they were no more to be accounted amongst those *Equites* or gentlemen: as is to be seene by *Lucius* & *Nero* the Censors, who yet seruing vpon publike horses, were one of them by the other commaunded to sell them: for after the ouerthrow by the Romans receiued from the Veians, the gentlemen began to serue vpon horses provided for them of the publike charge. Now I find that there were of the Patrician Families,

- A** milies in Rome, about fortie: but of such as by their valour left nobilitie to their posteritie in *Ciceroes* time scarcely thirtie: of which families, or houses, seuen were of the same name with the *Patricij*, viz. *Pompilia*, *Martia*, *Tullia*, *Iunia*, *Mutia*, *Claudia*, and *Sempronia*. And for that the entrance and way vnto the honourable preferments in the state, before the law *Canuleia*, was kept shut vp and stopped by the *Patricij* (or them that were of the Senators descended) against the common and vulgar sort of the people; and yet for all that none of these *Patricij* was accounted noble, except some of their auncestors had borne the honourable offices of the state: many of the *Patricij*, who were descended from the Senators, and yet could not cite such their auncestors as had borne such honourable charge in the estate, (which was well to be vnderstood by their statues or images) were accounted of as of men of base & low degree. So it came to passe, after the law *Canuleia* was made, that some euen of the common sort of the people became noble, and some of the *Patricij* vnnoble, that is to say, obscure and vknowne. As *Marcus Aemilius Scaurus*, a man descended of the Senators race, had his auncestours base and obscure men: whereas he himselfe being but a new man, came to be Pretor, Consull, and Censor, and at last being made chiefe of the Senat, raised nobilitie to all his posteritie. Wherefore the Roman nobilitie lay in the voyces and iudgement of the people, which as they thought best, bestowed the honourable preferments in the estate and Commonweale. Yet was it an absurd and most vnreasonable thing, that any most wicked murtherer and manquellar, were he neuer so basely borne, might by the benefit of bearing of some great place or office in the estate, leaue nobilitie vnto his posteritie: whereas he which excelled in wisdom, iustice, fortitude, and temperance, and so in all other vertues, godlinesse, and learning, yea and was descended also of the Senators race, if he could not show his auncestors statues, was euen therefore accounted but as base and obscure. For such is the force of this word *Ignobilis* with the Latines, which in the selfe same sense is of the Greekes called *γνώριμος*, and *ἡπιφάνης*; that is to say, such as either by some foule or notable fact or deed done, came into the knowledge of men: which is yet oftentimes taken in the better part, for they which are called *εὐφάνης*, refer it vnto the honor of their house & stock: which amongst the Romans did especially appeare amongst the *Patricij* or posteritie of the antient Senators: which for that they were almost dead and worne out, *Caius Caesar* by the law *Cassia*, and after that *Augustus* by the law *Seruia*, chose many of the more noble families into the order of the *Patricij*. For before the law *Canuleia* it was lawfull onely for the *Patricij* to be bishops and priests, and for them alone to make sacrifices, and to keep the Auspicia or diuine obseruations. But after that *Genutius* (first Consull that was made of the people) was in battell with the great slaughter of his armie vnder his conduct ouerthrowne, *Patres non tam publica calamitate maesti, quàm feroces infelicitis Consulis plebei ductu, fremunt, omnibus locis, irent, crearent Consulem ex plebe, transferrent auspicia quo nefas esset*, The fathers (as saith *Liuius*) not so heauie for the publike calamitie, as become insolent with the euil conduct of the vnfortunat Consull chosen from amongst the people, murmured and fretted in all places, that they should go and againe create a Consull of the people; and thither to translate the Auspicia or diuinations, whither it was not lawfull for them so to doe. And *Appius Claudius* the Consull, before that answered one of the Tribunes, asking him in an assembly of the people, Why one of the Consuls might not be chosen out of the people? Because (said he) none of the vulgar and common sort of the people can hold the Auspicia or diuinations; and that therefore the Decemviri had appointed a certaine order of mariage, least the sacred diuinations should haue bene polluted with persons vncertainly descended. At which answer, the people was with indignation exceedingly enraged, to heare it denied them

The Patritian families in Rome: *Sylvia*, *Pompilia*, *Patritia*, *Martia*, *Hestia*, *Tullia*, *Tarquinius*, *Fabia*, *Aemilia*, *Chelonia*, *Antonia*, *Iunia*, *Sergia*, *Iulia*, *Geganina*, *Nautia*, *Aemilia*, *Chelonia*, *Valeria*, *Horatia*, *Posthumia*, *Menenia*, *Virginia*, *Sulpicia*, *Furia*, *Lucretia*, *Quintilia*, *Papiria*, *Claudia*, *Serulia*, *Cornelia*, *Manilia*, *Cassia*, *Actulia*, *Pinaria*, *Veturia*, *Sempronia*, *Mutia*, *Aquila*, *Quintilia*, *Hortensia*.

The noble Families in Rome: *Licinia*, *Aurelia*, *Decia*, *Cæcilia*, *Alia*, *Domitia*, *Claudia*, *Mutia*, *Portia*, *Curia*, *Fabritia*, *Cornelia*, *Acilia*, *Maria*, *Pompeia*, *Liuius*, *Iunia*, *Tullia*, *Fulvia*, *Sempronia*, *Arilia*, *Calpurnia*, *Marcia*, *Pompilia*, *Lucretia*, *Platia*.

to hold the diuinations, as if they were vnto the immortall gods, more hatefull than others. And albeit that the people at length had all things common with the Senators, *viz.* honours, commaunds, iudgements, diuinations, cures, priesthoods, counsels, powers, statues, triumphs, and all other the greatest preferments in the Commonweale; yet could it neuer be obtained, that any one of the common sort of the people, should nominat the Interrex, or pronounce who should be the Archpriest, the Priest of *Mars*, or of *Romulus*: or yet be chosen into the colledge of the *Salij*. But as a statue or image was among the Romans the signe of nobilitie obtained: so in antiēt time with vs arms, with Cognifances set ouer them, were the tokens of nobilitie. Lawfull it hath alwaies bene, and so still will be, for euerie man to deuise vnto himselfe his Cognifance to be known by, but yet not to vsurpe the Cognifances, or beare the armes of other noble families. But the ancient Grecians deemed not of nobility by the obtaining & bearing of great offices; which enerie man among the Athenians (after the law of *Aristides*, and the seditious declamations of *Ephialtis*) might by lot, and few by voyces obtaine: but nobilitie with them was still to be deriued from the stock of their kings, or race of their great worthies, as from the *Heraclide*, the *Æacide*, or *Cecropide*, or from such other like: or else from such, as who for the worthie acts, either by themselves, or by their auncestours done, had by the generall good liking, and publike decree of the people, and of the nobilitie, with commendation obtained a crowne of gold, extraordinarie privileges, statues, to sit in the highest places, or to haue their diet allowed them in the *Prytanæo*, or other like publike places: Such as is that decree of the Athenians (whereof *Plutarch* writeth) concerning *Lycurgus* the sonne of *Lycophron*, It pleased the people of Athens (saith he) that requittall should bee made vnto such as had well deserued of the state, as to praise *Lycurgus* the sonne of *Lycophron* for his vertue and iustice sake: and in the honor of him to erect a brasen Statue for him in the market place, except in such place as where the law forbiddeth any statue to be erected, and diet in the *Prytanæo* to be for euer allowed vnto the eldest of the posteritie of *Lycurgus*. So in like maner *Isæus* the orator writeth publike diet, the first places, and privileges, to haue bene graunted vnto the posteritie of *Harmodius* the tyrant queller. Which thing *Aristotle* reporteth to haue bene a thing common vnto all the cities of Grace, to allow diet of the publike charge vnto the children of such as had valiantly dyed for their countrie. Howbeit that the Grecians with too much lenitie (should I say) or rather leuitie erected statues for such as had of them well deserued, which they vpon the least displeasure againe cast downe, and that with greater despite than they had with honor before set them vp. So when the Athenians had appointed 365 statues to be set vp in euerie place of the citie in honor of *Demetrius Phalereus*, they againe in a moment caused them all to bee cast downe: & not yet so contented brake them also with such furie, as that no fragment of them was left, except that onely which was kept fast shut vp in the tower of *Pallas*.

Amongst the Hebrewes were two sorts of noble men; the one descended from the stock of *Aaron*, who only were priests: the other from the stock of the kings. For why, that nation wisely reposing their chief felicitie in the sinceritie of their religion, and the true worshipping of God, so likewise deemed their priests, which came neere vnto the power of the immortall God, to be of all others most noble. Yea God himselfe had an especiall regard in making choice of *Aaron*, & in establishing of him after the most grievous reuolts & miserie of his people. And therefore as often as he comādeth exireame destruction to be denounced & threatned vnto his people, he oftentimes doubleth that *ככה ככה*, which is to say, That the state of the priest and of the common person, should bee all one. And therefore when the Iewes had cast off from the seruite yoke of *Antiochus* the Noble: the Familie of the *Æsmoneans* being of the stocke of *Aaron*, held the high priesthood, together with the kingdome about two hundred yeres, that

Certaine honors in Rome neuer communicated vnto the people. Statues the signe of nobilitie amonge the Romans; as are armes with vs.

How the ancient Græcians rewarded their nobilitie.

The Prytaneion was a place in Athens, wherein the iudges and magistrats sate to consult of the greater matters of state.

The lenitie of the græcians in bestowing their honors.

The nobilitie of the Iewes: in whom it especially rested.

A that is to say, euen vnto the raigne of *Herod* the Great. Wherein the Hebrewes did well: for if great offices in Rome, got oft times by corruption and briberie, left nobilitie vnto their posteritie which had so got them: what let is there why the priesthood of the eternall God, should not much more also ennoble men, especially if we measure nobilitie by the places men hold, and not by their persons. Truly all the best learned lawyers are of opinion, That the priestly dignitie is to be preferred before all other honours and vocations: and that the ministers of diuine things, & moderators of the most sacred rites, are not to be accounted among the number of the vulgar & common people: which is no new or strange opinion, but drawn & deriued euen from the most antient antiquitie. For the most antient kings, to make their roial power the more reuerend and stately, exercised also the priestly dignitie Neither did the Greeks only, but the Roman kings also, yea and the greatest emperors themselves, stile themselves high Priests or Bishops, whome the chiefe Arabian princes being also bishops, seeme therein to haue followed. And so the Christian kings beeing by their religion forbidden to mingle prophane things with sacred, or armes with religions; yet tooke that which was next; that is to say, in preferring a sacred order of the Clergie, not only before the common and vulgar sort of the people, but before the Senators, yea and not before them alone, but euen before dukes, earles, and other magistrats whatsoeuer: giuing vnto them the highest roomes, and first places next vnto the kings themselves, in all assemblies, counsels, enacting of lawes, and graunting of liberties and priuileges. And why not?

C when as the most antient people of the Celtes, accounted their Druides, who were the princes of their religion and iudgements, superiours not vnto the common sort of the people onely, but euen vnto their captaines and rulers also. For which cause *Cæsar* in recounting of their degrees, first reckoneth vp the Druides, then their knights or horsemen, and after them the common people. For the order of knights in the time of their auncestors, with a most strong power of horsemen excelled all people; as witnesseth *Cæsar* himselfe, as also *Marcus Antonius*: so that therefore I suppose them to haue bene called *καλτοῖς*; for the Greeks call him *καλὸς ἵππος ἄνθρωπος*, whome the Latines called *Sellarium*, and we an horseman. We said before the Turkish and Arabian princes yet in all their kingdomes and empires, to honour and obserue their Musties, or high

D Bishops, with the greatest honour and respect possibly to bee giuen vnto them, still referring vnto them the greatest and most doubtful questions of their law, to be by them decided. Yet the Venetians vse to exclude their priests from their counsels, from all places of commaund, and from all offices, least haply they should bewray the secrets of the citie vnto the pope, to whome they are by dutie & oath bound. Wherefore among the Venetians, the order of the Senators is first and chiefe of all others, for that in it is the soueraigne power of that state: next vnto the Senators follow the gentlemen, who are not accounted of the number of the Senators; and last of all the commoners, who yet are both by one name called *Citadinia*, or Citifens. But the Florentines before that all was swayed by one mans commaund, diuided not onely the nobilitie from the clergie, but euen from the common people also; and the common people they diuided againe into three sorts, of whome such as exceeded in wealth were called the Great ones, others of meaner wealth were called Popular Commoners, and they of the third sort, the refuse of the whole people. The antient Egyptians much better diuided their whole multitude of citifens, into Priests, Souldiours, and Labourers: setting the Priests and Souldiours, whome they called *Calasyræ*, free from all taxes and payments. *Hippodamus*, who gaue lawes vnto the Melesians, did a little otherwise diuide the people into Souldiours, Artificers, and Husbandmen: whose writings *Aristotle* seemeth either not to haue well vnderstood, or else not so wisely reprobued, as is evidently to be gathered

Priesthood honourable.

The most antient kings to haue bene also priests.

The great honour the Turkish and Arabian princes do vnto their Musties or high priests.

The order of the Venetian Commonwealth.

The Florentine how they diuided their citifens

The antient Egyptians how they diuided their citifens.

gathered of those fragments which are yet to be seene extant in *Stobæus*. I know not also how it came into *Plato* his mind, that haying made a diuision of his citicens into Keepers, Souldiours, and Husbandmen, he separateth the Souldiours (vnder whose bucklers and defence the citicens ought to rest) I know not how, from keepers. But in brieft, he would haue the keepers of his Commonweale to excell all others in wisdome and experience: and so to rule ouer them, without any respect to bee had either to the honour of their dissent, or to the greatnesse of their wealth or substance. Truly it was wisely so set downe by that most wise man: who although he were himselfe descended of the most auncient stocke of the Senators, and deriued his pedegree by the mothers side euen from *Solon* himselfe, the Athenian law-giuer, yet thought the true glorie of nobilitie and soueraigntie to consist in vertue onely: Which thing *Euripides* had before also wittily said, οἱ μὲν γὰρ ἐπὶ δόξης ἐν τῇ πόλει ἵκονται: ἡ δὲ δόξα οὐκ ἀμείνων παράγει: τὸν δὲ πρῶτον, δὲ οὐκ ἐστὶν δόξα. Wherefore let vs measure true nobilitie by vertue, for that therein not onely Philosophers and Diuines, but also Poets, Historiographers, and almost all Lawyers, do with one consent in mine opinion agree, denying any place to bee left for nobilitie without honestie. And two things propounded, to wit, Noble descent, & Vertue, they haue decreed, That the more higher & more honorable place is to bee giuen vnto vertue, whether question be of beating of rule, or of honour, or concerning the grauitie and weigth of their testimonies and witnesse. The next cause of nobilitie vnto vertue, many haue appointed to be the knowledge of hidden and most excellent things, whome they which haue attained therunto, the law it self expressly calleth most noble: whom (saith the law) *Knowledge maketh most noble*: or els as *Castodorus* saith, *ex obscuro nobilem efficit doctrina*, Learning maketh of an obscure man a gentleman. But then how much more noble is he than both of them, whome morall vertue concurring with the vertues of the mind and knowledge, hath together ennobled? But yet if integritie be diuided from such knowledge of most secret and most excellent things, the prioritie in this case is of right to be giuen vnto integritie and vertue: except in such vocations and callings, as wherein such excellent knowledge is of necessitie required: For why, it is better and more agreeing with reason, to haue a Generall skilfull in martiall affaires, although he be otherwise a naughtie man to gouerne an armie, than a good man which is no souldiour at all: but of these things more shall in due place be said.

But yet that which *Plato* setteth downe, That they which are but obscurely borne, excelling in vertues, are to be preferred before them which are nobly descended, excelling also in the same vertues with them; seemeth to me a thing verie absurd and vnreasonable. And truly these two things thus propounded, it is right that some regard should be had of the vertue and nobilitie of a mans auncestours: and on that opinion the Lawiers hane alwaies been, whether question be for the obtaining of honours, or for the taking of places in solemne assemblies & meetings, That they are still to be preferred, which both for their owne vertues and the nobilitie of their auncestours together, are to be comended. But he whom the prince hath made noble, although he be not of any account or worth, either for his own vertue, or for the vertues of his auncestors, or for his learning & knowledge: yet by the consent of all the Lawyers he is to be accounted in the ranke and order of the Nobilitie. And therefore *Plinie* writing to *Traian* said: *Cæsaris esse ut nobiles efficeret ac tueretur*, That it was the Emperors part to make noble men, & also to defend the. But this nobilitie *Bartholus*, not vnfitly hath called Ciuill nobilitie; declaring therby them to haue so gotten a certain counterfeite kind of nobilitie in the opinion of men, but yet indeed to haue no part of the honor of true nobilitie, without vertue. Wherefore let vs graunt them to inioy the fruits of such their ciuill nobilitie, vnto whō they are so by the princes gift & grant conferred: whether that such their

True nobilitie
to be measured
by vertue.

The knowledge
of secret and
most excellent
things, the se-
cond cause of
nobilitie.

Integritie to be
preferred before
knowledge.

Vertue ioyned
with noble dis-
cent to be pre-
ferred before no-
bilitie for vertue
only.

Ciuill nobilitie
by the prince
vnworthily be-
stowed, no true
nobilitie.

- A** their nobilitie be for money or reward, or for the pryme of their youth, or for some other their most foule and filthy seruices, by the princes bestowed vpon them. But to bestow such nobility belongeth onely to them which haue the power in soueraignie: and to them also whome *Bartholus* writeth to haue but the principalitie, especially if they be subiect vnto the commaund of superiour princes, or haue fellowes or companions in their gouernment: who cannot so much as make a man base borne to bee legitimate. Much lesse true it is, that some haue written, the minions and domesticall attendants of princes to be therefore become noble: for albeit that they thereby enioy certaine priuileges and exemptions from other seruices, yet are they not therefore to be accounted noble, except they haue borne the greater and more honorable offices and places of commaund.

B Yet question is, and I see it to haue often times beene before demaunded, whether he which by some chaunce or casualtie hath obtained some great place of seruice, or other fee, be thereby made noble? which I see to haue so pleased many, so that an honorable power and commaund be knit and ioined to such fee; such as are those of Dukes, Counties, and Marqueesses, or that the title of nobilitie be by the soueraigne Prince expressly set downe in the charters and graunts of homage and fealtie, and so giuen vnto the things themselves, and the professors thereof. And hercof rise that beginning of noble and vnnoble fees. But by the custome of our countrie, wherein fees are deemed by of the same right and nature that other lands and possessions be: as concerning the right of the persons that had them, the Artificer which by inheritance, or by purchase possesseth a Dukedome, is nothing therefore the more noble, then if he possessed other tributarie lands: For why it seemed vnto our auncestours an absurd thing, out of the right of the land to fish out that honour which they otherwise had not, and the persons themselves to giue place vnto the things as a picture vnto the table where on it is painted, and much more indignitie that the right of nobilitie should be so bought and sold. For of two of the greatest things, namely, of Vertue, and of Nobilitie, as *Euripides* plainly witnesseth no trafique is to be made, *μόνον δ' ἐν αὐτὰ χεῖμαῖ των οὐκ ἐν λάβοις γενναϊότητα καὶ ἀρετὴν*.

Whether an honorable fee, make a man noble or not.

Nobilitie not to depend of lands or fees.

Of vertue and nobilitie no trafique is to be made.

D Wherefore seeing that by our customes, aswell as by the customes of the Germans, the Spanyards, the Brittons, and Italians, all these fees, whether it please you to tearme them priuileges or seruices by chaunce obtained are to be bought and sold, who can of right thinke himselfe any whit the more noble for the hauing of such mercenarie things? And yet it is lawfull for euery most base Cobler hauing got such fee, to create his vassals to hold of him; as it is also for euery most honorable person to receiue his owne base vassall. Whereby it appeareth, that wealth and riches be they neuer so great, can neither get nor bring forth any true nobilitie at all. Howbeit that *Euripides* bringeth in a person according to the opinion of the common people thus speaking: *τὴν δ' εὐγένειαν ἐν χρήμασιν*, Nobilitie is in riches. And in *Solide*: *εὐδαίμονες ἐν πᾶσι κλεινοὶ καὶ περιβλεπτοὶ βροτοῖς*.

Wealth & riches be they neuer so great to bring forth no true nobilitie.

E And yet we read not onely the vulgar add common sort of men; but euen * *Aristotle* also himselfe to haue placed the first degree of nobilitie in wealth; the second in honorable discent; and the third in vertue, placing that last which should haue beene in order first. *Solon* also in like maner made choice of the Citisens of Athens by their wealth and riches, vnto honors and places of commaund: the cause whereof we will in due place declare. Which opinion hath taken so deepe roote, that many thinke wealth, riches, and great substance, not onely to beget nobilitie, but that all the glorie of nobilitie is by pouertie & want of wealth quite extinguished and blotted out: howbeit that they which so say are themselves but men of small authoritie and credite.

Lib. 4. polit.

Truely

Truely *Augustus* the emperor supplied the wants of the poorer sort of the Senators, lest that most honorable order should haue beene with pouertie oppressed. But *Bartholus* hath expressly written, True nobilitie to be neither got by wealth, nor lost by pouertie. Neither did *M. Æmylius Scaurus* deeme the honour of his house to be taken from him by his pouertie: yea the nobilitie and glorie of his familie deliuered him from the power of his most gracious and mightie accusors. Now then if there be a most shamefull villaine, and thereto rich withall; shall he therefore be in degree superior vnto the honest poorer sort? men I thinke will not so say: then how much lesse ought we to iudge murderers and men polluted with all kind of villanies, because they abound with wealth to be therefore the more noble? For why the Romans alwaies diuided wealth from nobilitie, for so *Tacitus* reporteth of *Cassius* and *Syllanus*, the one of whom saith he excelled in auncient wealth, & the other in the honour of his auncestours. And so *Cicero* called *Rossius* for nobility and wealth the chiefe man of the towne wherein he dwelt. Wherefore our kings at such time as they, troubled with warres and pressed with want of coyne, had set nobilitie to sale, and that many men for their bad lines infamous, were yet for their money become noble; the Prince by a law made, declared none of them to be therefore so to be deemed noble, but that he might still be accounted amongst the number of the meaner sort, and beare offices amongst them. For what can be more absurd or pernicious, than to measure reputation by gaine, degree by money, and nobilitie by wealth? whereas these things often times by theft and robbetrie, or immoderat lauash prodigalitie of tyrants are bestowed vpon euery bad fellow, or by some other chaunce, (although in truth nothing be by chaunce done) or fortunes frailtie (whereof they be called the goodes of fortune) giuen vnto men, and so also againe from them taken. Whereas honestie doth in nothing participate with fortune, nor the true possession of vertue and nobilitie can by theft be taken away, nor by fire be consumed, nor by the inundation of waters drowned, nor by any other force extinguished. But for asmuch as we are for the most part led by the vaine opinion and popular errors of men, whereof both all publike and priuat lawes consist; it hath also preuailed, that hee which hath either by the Princes graunt, or by his owne vertue, or wealth, or learning, or seruice in warres obtained nobilitie, may of right transferre the same not onely vnto his posteritie, but euen vnto them also whom he hath adopted. And that contrarie to the decrees as well of the Diuines, as of the Philosophers: Whereby it is sufficiently vnderstood all sorts of men to haue had their beginning from the rotten earth, as it is said, *τὸ πᾶν πάντων προπάτορα γένος ἔκειν*. But it is one thing to reason of degrees and dignities in the assemblie of wise men; and another thing to doe it in the presence of the vulgar sort, and scumme of the people. And yet neuerthelesse it not onely is, but alwaies also hath beene a thing both honest and necessarie, for euery man to yeeld and consent vnto the Lawes and customes of his owne citie and countrie. And yet for all that some would not that the vertues, deserts, and honour of the Grandfathers should be extended farther then vnto their Nephues sonnes, and that also vnto such as wete of themselues lawfully descended, and not vnto their bastards or base borne. True it is, that by the customes of the Turkes, euery mans degree & reputation is esteemed by his owne worth and vertue; neither doth the grandfathers valour or nobilitie reach farther then their nephues: wherein they doe also wisely, to the intent that euery one of them should endeuour themselves by their owne vertues to renew the declining honour of their stocke and kinred; being otherwise, to be accounted in the number of the base and common sort of people. Howbeit that by our depraued and corrupt manners, the farther that a man is in discent or degree from the vertue of his auncestors, from whom he tooke the beginning of his honour, the

True nobilitie
to by neither got
by wealth, nor
lost by ponertie.

How farre the
honor of the
auncestours
should extend
vnto their poste-
ritie.

A good custome
of the Turkes,
whose reputa-
tion still depen-
deth of their
owne worth and
vertue, and not
of their aunc-
cestours.

more

- A** more noble he is therefore reputed : neither if he shall by all manner of villanies, or loosenes of life dishonest himselfe, doth he therefore loose his degree or honour, except hee be in publique iudgement noted with infamie : in which case although hee leaue his lewde life and the companie of wicked men, and ioine himselfe with the good, yet shall he not againe recover his nobilitie ; so by iudgement once lost, but by the Princes restoring of him, and by speciall rescript. And as hee himselfe from his auncestours receiued nobilitie, so doth he also vnto his posteritie deriue the note of infamie ; whether he were by right or wrong condemned : for that a thing by iudgement passed, is still accounted to be indeed a thing true. And what maruell ? seing that he which exerciseth base trades, and not becomming a noble man, is euen without any
- B** such publique iudgement to be thrust into the order of common persons. But which be such base trades is an high question, by reason of the diuers Lawes of diuers nations, in that point one of them most vnlike another. *Herodotus* writeth, That in his time they were by the customes of all people accounted base, which vsed handycraftes : of which opinion we read *Xenophon* also to haue bene ; who yet yeeldeth a reason thereof not becomming a philosopher ; as forsooth that men of such occupations were still busied, and led a close and sedentarie life : for what can bee more painfull or troublesome than the Generalls life ? or more close and sedentarie than the judges calling ? And yet what can bee more glorious or more noble than they both are in euery Citie and Commonweale ? But *Aristotle* said better, who writ all Mechanicall or handycraftes men in the cities of Græce to haue bene still kept from councell, from all commaund, and honours : for that they beeing mercenarie men, and to be hired for wages, had quite lost the strength and power of a noble and heroicall minde. And truely the * Master of wisdomie it selfe repelleth husbandmen, Smithes, Potters, Image makers, and such other handycrafts men from bearing of authoritie and rule, from honors, and from taking places with the judges. *Lycurgus* also and *Romulus* seperated their citisens farre from all handycrafts ; yet *Romulus* permitted his citisens to vse husbandrie, and to beare armes : whereas *Lycurgus* gaue his leaue onely to exercise armes. And to the end it may be the lesse doubted of, *Dionysius Halycarnassens* repeating the same thing saith : *Hoc lustro, qui puberes essent supra centum millia censa : mulierum autem, seruorum, mercatorum, artesque sordidas exercentium* (*siquidem Romanorum nemini cauponariam artem, aut vlla opificia tractare licet*) *triplo plus quam turba ciuilis*, In this view were mustered of them that were fourteene yeare old, aboue an hundred thousand : but of women, seruants, matchants, & such as vsed base occupations and trades, (for why it is not lawfull for any Roman to keepe a Tauerne, or to exercise any other handycraft) were reckned three times moe than there were of the ciuiler sort or citisens. Yet some there be which think *Numa Pompilius* to haue derogated from the law of *Romulus*, seing that he appointed Colleges or Companies of artificers, as if they might not haue bene made of straungers, or of slaues. Which seemeth to be also confirmed by that which *Cicero* said, Many to haue bene in *Catilins* conspiracie, which flockt together about the Tauernes, in hope that the minds of the needie might for money be moued to take his part. And by that also, that the Tribunes of the people had by the companie and rout of the Artificers, wonted to guard themselues against the insolencie of the Consuls. But against these repugneth that which *Dionysius Halycarnassens* writeth, *vid.* that in the seatiuenth view were mustered an hundred thousand citisens, beside artificers : By which words it is manifest, that *Numa* derogated not from *Romulus* his law, for as much as king *Seruius*, the third from *Numa*, was the first that so viewed or mustered the people. Neither doth that which is alleaged conuince them to haue bene citisens whom the Tribunes or seditious

Noble men by exercising of base trades, to loose their nobilitie thereby.

Handycrafts accounted base trades.

Handycrafts men why they commonly are basely minded.

Ecclesi. cap. 38.

The Lacedemonian and Roman citisens by *Lycurgus* and *Romulus* their lawgiuers forbidden to exercise mechanicall or handycrafts.

Al Romaine Cit-
izens bound to
beare armes.

Toga virilis or
the mans gowne
was by the Ro-
maine citizens
worne, when they
were come to be
seauenteene yeare
olde.

The base regard
that was had in
Rome of artifi-
cers and men of
occupation.

Whether to vse
the trade of mar-
chandize be a-
gainst a mans cre-
dit and reputation
or not?

Amphora the Ro-
maine measure is
more then our
bushel by 16
pound weight.

The Romaine
Knights and gen-
tlemen to haue
vied the trade of
marchandize.

citizens stirred vp to rebellion, seeing that very slaues in like case were often times called vnto libertie: as we read they sometimes were by *C. Cinna*. *Cicero* also thus speaketh of the Artificers, whom the conspirators with *Catiline* stirred vp to rebellion: *Etenim omne eorum instrumentum, omnis opera, ac questus, frequentia ciuium sustinetur, alitur otio*, For (saith he) all their instruments and tooles, all their worke and gaine, is maintained by the multitude of Citizens, and with quietnesse nourished. Now it were verie impropertie said, artificers to be maintained by the multitude of citizens, if they themselves had bene also citizens. But by the Martiall law of the Romans, the citizens after they had begun once to weare the *mans gowne, were compelled to serue in the wars vntill they were five and fiftie yeares old. Neither was there any way for a citizen of Rome to attaine vnto any honor, except he had serued in the warres ten yeares: For which cause it is by *Liui* reported, two thousand of the citizens to haue bene openly sold, for that they had not for foure yeares space serued in the warres; which could by no meanes haue bene done vnto artificers: whom *Liui* also in one place writeth, to haue bene men altogether vnfit for the warres. That testimonie of *Cicero* is in this point also of more waight: *Illiberales sunt & sordidi questus mercenariorum omnium, quorum opera non quorum artes emuntur, est enim in illis ipsa merces autoramentum seruitutis*, The gaines (saith he) of all mercinarie men are seruile and base, whose works and not whose skill are of men bought, for in them their verie wares is the earnest penie of their slauerie. But where he speaketh of the Roman citizens indeed, he neither thinketh nor writeth any thing of them which is contemptible or base, or that soundeth not vnto their reputation and honour. Whereby it is to bee vnderstood Artificers and men of occupation in Rome, to haue bene either slaues, or straungers, and men of most base and lowe estate and condition: or if that by manumission they were become citizens of Rome, yet they were therefore but in the number of Libertines, hauing as it were in some sort lost the right of the citizens of Rome, no otherwise then Noble men with vs, which haue giuen themselves to base and gainfull occupations or trades, who as they haue thereby lost their nobilitie: so haue they also lost their degrees and places: except they haue therefore obtrayned pardon of our Prince, as that enforced with necessitie, they haue so intermeddled in such base trades.

Howbeit concerning the trade of marchandize, it is not well agreed vpon betwixt the Lawiers and the auncient writers amongst themselves, whether it be repugnant vnto a mans credit and reputation or not. We read that by the Tribunall law *Clau- dia*, it was forbidden the Senatours to haue any greater ship at Sea, then of the burthen of three hundred Amphoras, and that also for the carrying of the fruits of their landes: *Questus omnis* (saith *Liui*) *patribus indecorus visus*, All gayning by trade (saith he) seemed vnto the Senatours vnseemely. Which law *Hortensius* said to be in his time dead: as in *Cicero* we read: Whereby it is yet to bee gathered, that not onely to haue bene lawfull for the rest of the citizens to doe, euery mans credit and reputation saued whole: But also euen the Senators themselves, not to haue altogether abstained from the trade of marchandize, or at least wise to haue had their factors; as wee see the manner is for the Venetian, Spanish, and English gentlemen to haue. And that it was lawfull for the Romaine knights or gentlemen to vse the trade of marchandize, or at least wise that it was not altogether forbidden them, is to be pro- ued by that which *Cicero* saith against *Verres*: *Lucius Prælius splendidissimus Eques Romanus qui Panormi negotiatur*, *Lucius Prælius* a most worthie Romaine knight, which doth trade at Panormio. And in another place: *Q. Mutius Eques Romanus qui Syracusis*, *Q. Mutius* a Romaine knight who tradeth at Syracusa. Much lesse there-

A therefore was the trade of marchandise forbidden the common sort of men. And yet although by the old custome of the Romans, it was no shame for the citizens to trade marchandise: (yet I say) it seemeth not for all that to haue bene altogether lawful for them so to doe: as is to be proued out of *Diomysius Halycarnassens*, who writeth aboue an hundred thousand citizens to haue bene cessed: but of women, and marchants, and others of base trades, three times as many as of the citizens: whereby hee seemeth to haue exempted marchants out of the number of the Roman citizens.

Neither do we see that to haue bene the manner and fashion of the Romans only, but of the Lacedemonians and Thebans also. Howbeit that the vse of gold and siluer, being taken from the Lacedemonians, there was no place left for marchandise: yet **B** was it *Lycurgus* his pleasure, by an especiall law more solemnly to prouide therefore. As for the Theban citizens, it was not otherwise lawfull for them either to sue for the magistracies, or honourable offices of the Commonweale, or to accept thereof being offered them, except they had full ten yeares before abstained from the trade of marchandise. And at length by the imperiall lawes all entrance vnto honors, and places of commaund were shut vp vnto the order of marchants: and not that onely, but euen to deale in the trade of marchandise was aswell forbidden the nobilitie, as to intermeddle with martiall affaires was forbidden marchants. By which lawes the trade of marchandise seemeth vnto many either base, or not verie honest or commendable. Truly *Plato*, *Aristotle*, *Apollonius*, *Thyaneus*, say, The trade of marchandise to bee an

C enemy vnto vertue. Yea the law of God seemeth also to haue restrained the holy people from the trade of marchandise, in these words, *Non erit mercator in populo tuo*, There shall be no marchant in thy people: that is to say, דוכר, which word improperly signifieth a deceiuer, but more properly a marchant: for דברי, is properly to buy & sell; and in that sence it is almost alwaies vsed. For that diuine law which forbade the people, but not straungers, to commit vsurie, seemeth also to haue forbidden to buy any thing, to sell the same thing the deerer vnto a naturall Israélite. Whereunto agreeeth that which he the * *Prince of wisdome* writeth, *Mercatorem manus a scelere puras vix habiturum*, A marchant hardly to haue his hands cleane from wickednesse. Wherefore the * *Prophets* most often, and the interpretours of holy scripture, more often doe

The better sorte of citizens in diuers commonweales forbidden to deale in the trade of marchandize.

The people of God forbid to be marchants.

Eccles. 2. 4.
Ezech chap. 8. 2

Chrysost. Hom. 2. in Matheum.

D so detest the trade of marchants, as that * *Chrysostome* not obscurely or doubtfully, but euen plainely denieth, That marchants can please God, by reason of their lies, perjuries, and deceits, and for that they are still prone vnto vn honest gaine, as *Vlpian* the lawyer writeth.

Yet of that we are to be warned, that whereas the immortall God forbid his people (whome he by a singular right and choice had consecrated vnto himselfe) to trade in marchandise: belongeth not to other people in like manner also; for that he would haue this his people to excell all others in puritie and integritie of life. For why, marchandise is not onely vnto cities profitable, but honest also; and not onely honest, but also necessarie. For what if a citie be built in such a barren soile, or situat in such a place,

The trade of marchandize both honest and necessarie.

E as that men cannot therein not commodiously, but euen not at all otherwise liue? Such as we haue heard the citie of Athens to haue bene, and as our Limoge, and the German Nuremberg is: and Venice also the beautie of the Mediterranean sea. Which foure cities without traffique and the trade of marchandise had neuer bene such and so great as they were and are. Wherefore *M. Tullius* out of the number of marchants, or at leastwise of base men, exempteth them which exercise a plentifull and gainfull, and not a base and bare trade of marchandise, *Mercatura si tenuis est, sordida putanda est, si magna & copiosa, multa undique apportans, multisque sine vanitate impertiens, non est admodum vituperanda*, The trade of marchandise (saith he) if it be small and bare, is to be accoun-

ted also base, but if it be great and plentifull, bringing in on euerie side many commodities, and without vanitie communicating the same vnto many, it is not much to be discommended. Whereunto I would add that of *Platoes*, if it bring in but such things as are necessarie, or at leastwise profitable for the citisens, and carrie out but such things as are vnprofitable, and to be spared. And therefore many lawyers say, The trade of marchandise abounding in plentie of all things, in nothing to derogat from the honour of a mans birth, his degree, or nobilitie. Which haply may be so in Italie, in England, and in Portugall, but not with vs in France, nor yet in Germany. Yet that is euerie where true which *Cicero* writeth, *Sordidos indicari qui mercantur a mercatoribus quod eodem loco ac momento vendant*, Them to be deemed but base, which buy of marchants that which they hold euen in the same place, and selfe same moment againe sell: for why, they should gaine nothing, except they should lye loudly: whereas nothing is more foule than vanitie and lying. Wherefore they do wisely which forbid not only the nobility, but euen the magistrats & souldiors also to deale in the trade of marchandise, least vnder the colour of such traffique, a way be opened and giuen to basenesse and rapine: neither is it to be suffered, that he which cannot by himselfe, should by the help and ministerie of his seruants in that point defraud the law.

But baser than these are the buyers and sellers of things dishonest, bee they neuer so precious, and to be placed beneath handie crafts-men and laborers, or rather so much as is possible to be quite driuen out of all cities: which cannor yet altogether bee done, for that the law for things honest and dishonest, for things profitable and disprofitable, is not euerie where one and the same. We haue heard painting and engrauiing to haue bene much commended and respected, by the estimation that the Greekes and Latines had of them. For who was more famous than *Protogenes*? or more glorious than *Apelles*? one of whose tables, which for that it was most curiously wrought, preserued the Rhodes from destruction, *Demetrius* besieging of it: Which table is reported to haue bene esteemed at more than three hundred talents. And as *Tully* saith, It was giuen as a praise & commendation to *Fabius*, a most noble gentleman, That he was seene in painting: which yet the Hebrews account of all other occupations the basest. And by the lawes and customes of the Turkes, as of all them of the East, and of Affrike also, it is not onely a base thing, but capitall also, with the needle, pencill, or moulding, with any pictures or lineaments to shadow or draw the purtrature of any plant, or liuing creature, or of whatsoeuer thing else that nature hath created. Wee read also the profession of Physike to haue bene amongst the Romans a seruile and abiect thing, and Physike it selfe to haue bene excluded from the other liberall sciences; which yet for all that the Hebrewes and Greekes euer had in great estimation: and begun then to be of our countrey men regarded, when as the Arabians had first diuided Surgions and Apothecaries from Physitians, vsing them but as their instruments and ministers. And albeit that Physitians be in cities to be reuerenced, yet is it not to be suffered them to be equall with orators and lawyers. For why, the most famous Philosophers haue defined the ciuill and lawfull knowledge of the law, to bee the moderatour and chiefe gouernour, not of arts onely, but euen of all liberall sciences also. And Rome (as *Marcus Cato* witnesseth) flourished aboue six hundred yeares without Physitians: whereas no citie can without lawes, and the lawfull knowledge of the law, any small while endure or stand.

The order and vocation of Husbandmen and Grasiars, is also right commendable: as they which by those two most auntient trades, haue taught cities, townes, villages, and families, to relecue and maintaine themselves with things of all others most necessatie. And truly *Cyrus* the Greater, of nothing vaunteth so much, as of the fields set and planted

The marchants trade in diuers countries diuersly reputed of.

The same thing that in one place is accounted honest or profitable in some other to be reputed dishonest or vnprofitable.

Eccles. cap. 38

The vocation of husbandmen and grasiars in auntient time right commendable, and while now lesse respected.

A planted by his owne industrie and labour. *Serranus*, also *Curius*, *Concinnatus*, *Torquatus*, and *Cato*, men no lesse famous for their ciuill than their domestical prayses, were yet for that most commended. *Quod attritis opere rustico manibus salutem publicam stabili- rent : quaeque modo arantium bonni iuga rexerant, triumphalis currus habenas retinerent*, That with their hands worne with countrey labour, they established the welfare of the Commonweale: and that those hands which of late ruled the yokes of oxen at plow, now held the raines of the triumphall chariots in the citie of Rome. But these things were chiefly done in that age when as such men as had before bene Consuls were now from the plow called vnto the Dictatorship. Truly of all things whereby any thing is gotten, nothing is better than husbandrie & grasing, nothing more plentiful, nothing more pleasant, and I might say also with *Theophrastus*, nothing better becoming a free borne man, οὐδ' ἐν μᾶλλον αὐδ' ὅτι τὰ ἐλευθέρων ἀξίον: were not these most notable arts, in seruile manner contumeliously let out vnto base men, for wages hired. Now wee haue said those arts to be accounted base, whose wages is the earnest penie of their sla- uerie: so that it ought not to seeme straunge, if that husbandmen in the fall of the Ro- man Commonweale were put backe from the wares. Whereof it followeth, both the orders and degrees of husbandmen (I say) and shepheards to be placed in the rank and number of labouring men. For necessitie it selfe (yea oft times against reason) en- forceth the dignitie of degrees and vocations of men to be disposed of according to the lawes and customes of euerie citie and countrey.

C The Hangmans office almost euerie where is deemed of all other the basest: nei- ther by the Censors lawes was it for him lawfull to haue a dwelling place within the ci- tie: as in this our age it is not lawfull for him at Tholouse. Whereas by the lawes of the Hebrewes it was not onely honest, but necessarie also, euen the noblest of them if they had bene witnesses of capitall crimes, to be also the executioners therein. Yea and in England the neereft kin to them that be hanged, be it their fathers, their brethren, or neereft kinsmen, the last kindnesse they can doe them, is to play the part of the hang- man, and to strangle them hanging vpon a low paire of gallowes. But by our customs we see gainfull rewards propounded vnto this so base an office, least wee should bee at any time destitute of an office so necessarie for the cities: as we haue heard say it to haue long since happened in Gaunt, where the iudge for lacke of an hangman commaunded the father and the sonne, both convicted and condemned for the same offence, to cast lots which of them should be the others hangman; wherein the lot fell vnto the father, who now growne verie aged, with much entreatie obtained that his sonne, as by age the stronger, and so fitter to liue, might become the executioner; who without feare hanged his father: the eternall monument of which impietie and villanie (which I against my will haue beholden) the Gantois suffer yet to stand in statues of brasle, and that in a publike and open place euen in the midst of the citie.

E There is also in cities a great multitude of idle lazie fellowes, who neither in time of peace, nor warre, haue any occupations to set themselues to worke, or other trade to busie themselues withall: whome it is needfull either to banish out of the citie, or to keepe them in publike workes: for why, they can in no degree be placed, and so much the more, if they haue nothing of their owne wherewith to maintaine that their idle life. And these kind of men *Amasis* king of Egypt put to death, in like manner as if they had bene theeues and robbers. Wherein they of Paris doe much better, who thrust the strong and lustie of these idle mates into their publike workes; courteously feeding and curing the sicke and aged, and diligently instructing the fatherlesse and poore boyes and maids, some in learning, some in occupations, in foure diuers colleges, besides a great hospitall endowed with most faire reuenues.

The hangmans office in some places respected. *Dent. 17. and 19.*

The author in this custome by him reported much mistaken and deceived.

Idle people to be thrust out of the citie, or els set to worke.

But if citisens liue idle vpon such goods as they haue themselues before got, or were of old left them, albeit that they lead a foule and sluggish kind of life, yet are they to be therein suffered, if it were but that they might with their wealth helpe the poore Commonweales wherein they liue. But if these men feed also their mind with the contemplation of high and heavenly things, I deeme them then of all sorts of citisens the happiest, and to be placed in the highest rankes and degrees of them. But if they had rather lead an actiue than a quiet kind of life, it is much better to call them than poorer men vnto honours and magistracies, if no dishonestie of life let: for that they are like to bee cleerer from briberie and corruption, than they which are pressed with pouertie and want. Wherefore in obtaining of magistracies and honours, the law commaundeth the richer sort to be oftentimes placed together with the nobler; yea and some times also to bee preferred before them, if no staine of their fore passed life let: and that is well agreeing vnto the lawes and customes of the Indians, whom *Plinie* writeth to preferre still the best and richest man vnto honours and places of commaund.

How citisens are
in a Monarchy to
be ordered and
placed.

Wherefore in what order citisens are to be placed, is to be referred vnto the iudgement and discretion of the masters of the ceremonies of euerie citie, for the vnliknesse of their lawes and customes almost infinit. Yet I suppose, that citisens in a monarchie might in this order not vnaptly be placed. That next vnto the king himselve, who out of the number of the citisens, going farre before the rest should follow the holy order of the clergie: next vnto the sacred order of the clergie, the Senat: after the Senat should follow the martiall men, and amongst them, first the generall of the armie, or great constable, & then the dukes, counties, marquesses, gouernors of prouinces, landgraues, burgraues, captaines of castles, vassals, and other souldiours, with such others, as vpon whome the charge of the warres, by the custome of our auncestours lieth. After them should follow the order of gowne men, which should containe the colledges of magistrats, and companies of judges, partly diuided into their places, with oratours, lawyers, pleaders, aduocats, attourneies, proctors, scribes, registers, notaries, sergeants, apparitors, garders, tryers, trumpeters, gailors, and all the companie belonging to the law. Next vnto whome should follow the order of physicians, surgeons, and apothecaries. And after them schoole men, such as professed to instruct the youth, or are themselues instructed; the professors (I say) of diuinitie, law, and physike, natural philosophers, mathematicians, logicians, rhetoricians, historiographers, poets, and grammarians. After the order of gowne men, I suppose are to be placed marchants, agents, farmers of the common custome, bankers, money chaungers, brokers, and especially they which haue the charge for the bringing in of corne into the citie, and of such other things as are most necessarie for the feeding of the citisens, such as are the cornmungers, butchers, fishmungers, fishers, bakers, puddingmakers, cookes, vnto whome we will ioine husbandmen and grasiers; and vnto these all kind and sort of handycrafts men: which for that they seeme almost innumerable, of them, they which are the most profitable, ought to haue the first place, carpenters (I say) armourers, masons, metall men, coyners, gold beaters, goldsmiths, metall melters, glasse makers, smiths, bakers, potters, horners, chaundlers, weauers also, and such as deale in spinning of silke, wool, beasts, haire, flaxe, hempe, cotton wool, and such other like, whereof we see cloath, ropes, garments, hangings, sayles, and paper to be made. Next vnto whome follow cutriers, skinnners, fullers, diers, taylors, shoemakers: vnto which occupations, although printing be not for antiquitie to be compared, yet seemeth it for the excellencie thereof, before al the rest worthily to be preferred. For as for painters, image makers, caruers, makers and sellers of womens paintings, minstrels, players, dauncers, fencers, tumblers, iesters, and bauds, are in mine opinion either to be quite driuen out of cities, or else to be placed in the lowest place of all.

Printers to be amongst men of occupations especially to be regarded.

A all : so that euen bath keepers, barbers, sailers, hucksters, ostlers, coach men, carters, graue makers, largeants, and hangmen, are to be placed before them : For that these are indeed necessarie for the carrying out of filth, and the clensing of the citifens and cities : whereas the other with their most base trades, the ministers of foule and vaine pleasures, not onely corrupt the citifens maners, but vtterly ouerthrow euen the cities themselves. But we haue so described the orders of citifens, not so much that the dignitie, as the condition of euerie one of them might so the better be vnderstood.

Neither are citifens but most seldome, and that also in time of great necessitie, to bee in orders from other citifens diuided : for that so doing may giue occasion and minister matter vnto ciuill sedition : when as some of them diuided from other some, shall perceive themselves to be noted also with a difference of their order and degree. Yea we said, that the citifens of one and the same trade or occupation were not in one street or quarter of the citie to be together placed : except they were by the straitnesse of the places or opportunitie of the waters they were to vse, thereto enforced ; as butchers,

B curriers, selmungers, bath keepers : who for that they are to haue the continuall vse of water for their oft washings, must haue their dwellings also neere vnto the riuers sides : so are also armourers, and smithes, to be placed apart by themselves from schollers and students, as for other handicrafts men, marchants, and trades men, it is good to haue them separated one from another, and to be diuided into euerie part of the citie, that the citifens may more commodiously vse their helpe in generall, and not in time of daunger be enforced oftentimes to runne from the furthest place of the citie to the furthest.

C Whereunto is to be ioyned, that citifens of the same occupation or trade, diuided into diuers parts of the citie, cannot so easily conspire against the common good, or delude the lawes, as if they dwell together. But if assembly of all the orders and degrees of citifens, must of necessitie be made (for that degrees must needes in some sort bee distinguished from degrees, that a certaine dignitie of degrees may be kept) especiall care is to be had, that the citifens be not diuided into two parts onely, and yet that in such assemblies there be not more than three degrees or places : for that contention arising betwixt two, they easily breake out into force ; or else vpon equall voyces breake off, and leaue the matter vndecided : when as one thing is contrarie but onely vnto one, and that by nature many things cannot vnto one be contrarie, but that the third must of necessitie ioine it selfe vnto the one of the two, so to reconcile them together : whereas if there be more than three parts, and in number equall, the same inconueniences doe follow (that doe of two) the euen number being easily to bee diuided into two parts : but if in number vnequall the number of opinions diuers will hardly end the controuersies once moued.

It shall also be more commodious and profitable to haue one oratour or speaker, for all the degrees of citifens together, then for diuers orders and degrees, diuers : so that it be agreed vpon amongst all the degrees and orders what is to be requested, determined of, or done : as heretofore at *Thurin* and *Orleance*, when they called their assemblies. But if the orders and decrees of citifens shall therein differ among themselves, it is then needfull for euerie order and degree of the citifens, to haue their owne speaker.

E As of late in the parliament of *Blöyse*, when as the Bishops grievously complained of the Nobilitie ; and againe the Nobilitie of the Bishops ; and the Comminaltie of them both, it was then needfull to haue three Speakers appointed : and yet so could not the good of the people bee sufficiently provided for, but that the Speakers were blamed of falshood and collusion, and that diuers great and grievous complaints of the people were thereof giuen out. But these things are especially to be taken heed of in a Monarchie, wherein one man is iudge of all controuersies : Whereas in other kinds of states, albeit

Citifens but seldome and that also vpon great necessitie to be into orders diuided.

Citifens better to be diuided into three parts, than into two.

Whether it bee good for to haue one speaker for all the degrees of citifens, or diuers.

albeit that there be many speakers, yet the matter is still in the end put to voyces.

But that diuision of the citizens (which we haue spoken of) into three degrees or parts, as it is vnto all kinds of cities profitable, so is it in an Aristocratie most necessarie, that two of them disagreeing, the third may end the strife, or taking part with one, may draw the other whether it wil or no from the former receiued opinion. For if two factions shall arise, they which are wise, & wish the good & welfare of the Commonweale, should set vp an head of a third faction, and ioyne themselues vnto him: For three leaders of diuers factions, or part-takers, are right easily reconciled; whereas two are most hardly brought to agreement: whereof oftentimes arise seditions and ciuill warres, and that especially in the Aristocratike estate: For that in that estate, betwixt the nobilitie and common people, can be no third degree, all the right of soueraigntie being in the nobilitie, and nothing thereof in the people; all the same right in a Popular citie, or estate, being common to the nobilitie and Senat together with the people. Wherefore it is an easie matter to create a third degree or order: as at Rome the order of knights or gentlemen, was in a sort an arbitratour or vmpier betwixt the *Patricij* and the people, as made of both degrees. But for that both the *Patricij* and the knights made scarcely the fifth part of the whole people, the people did therefore the more imperiously raigne & rule: which was then especially vnderstood, when as by a law concerning the Theatres, place for the beholding of playes, was first giuen to the Senat, & next after them vnto the knights or gentlemen, all apart by themselues from the people: whereof *Liuius* thus writeth, *C. Attilij Serrani, L. Scribonij Libonis Aedilium Curulium Ludis Romanis primum Senatus a populo secretus spectauit, praeuitque sermones sicut omnis nouitas solet alijs tandem, quod mento ante debuerit tributum consentibus amplissimo ordini, alijs demptum ex dignitate populi quicquid maiestati patrum adiectum esset interpretantibus: & omnia discrimina talia quibus ordines discernentur, & concordie, & libertatis aequè minuende esse: ad quingentissimum quinquagissimum Sextum annum in promiscuo spectatum esse, quid repente factum? Cur non immisceri sibi in cauea Patres plebem vellent? Cur diues pauperem confessorum fastidierit? Nonam & superbam libidinem ab nullius ante gentis Senatu neque desideratam, neque institutam Postremo Africanum quoque ipsum, quod Consul auctor eius rei fuisset, pœnituisse ferunt.* At the Roman plaies of *C. Atilius Serranus*, and *L. Scribonius Libo*, the honourable *Aediles*, the Senat apart and diuided from the people, first beheld the same: which thing (as euerie nouelty vseth to doe) gaue occasion of speech, some deeming it now at length to be giuen vnto that most honourable order, which should long time before haue of right beene giuen it; other some interpreting it to be taken from the dignitie of the people, whatsoeuer was added vnto the honour of the Senat: and all such differences as whereby degrees were discerned asunder to tend alike to the diminishing both of concord and of libertie: that the people indifferently together had beholden the plaies, now fūe hundred fūtie six yeares. What was that now so sodenly done? Why should not the Senators be contented to haue the people mingled with them in the Theatre? Why should the rich scorne the poore man to sit by him? A new and proud insolencie, neuer before of the Senat of any nation either desired or ordained. Last of all it is reported, *Africanus* also himselfe to haue repented him, That being Consul, hee had beene author of that matter. Thus much he. Whereby it is to be vnderstood, that for the preserving of the popular libertie, and concord, degrees ought so to be placed with degrees, as that all of them may more easily bee ioyned vnto all in societie and communion together. Wherefore this fact of *Africanus* was blamed, not onely of the common people, but even of the Senators themselues, whose fauour he was thought to haue gotten: For so *Tullie* writeth him to haue bene blamed, not onely of the wiser sort, but euen of himselfe,

Better three parts taking in a commonweale than two.

Not good in great assemblies to diuide the people into three degrees and orders.

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- A** selfe also; for that, that was by force from the people extorred, which had before vntill then bene willingly graunted vnto the Senators: for that albeit that the seats were indifferent vnto all, yet neuer any of the people would presume to sit to behold the playes before the Senators. About an hundred yeares after was a law made by *L. Roscius Otho*, Tribune of the people, That the knights or gentlemen should sit and take their places vpon the foureteene steps or degrees next vnto the stage: For when the magistrats and the rest of the Senators, by the Censors law, did more commodiously see and heare from the first and neereft places vnto the stage, the higher degrees and farther off, were accounted of lesse credit: & albeit that the places of the Theater were of right great receit (as which contained oftentimes threescore thousand of the citisens) yet
- B** could they not containe them all: & therefore by the law *Roscia* concerning the Theater, it was needfull that place should be kept for the knights, in the foureteene steps and degrees neere vnto the stage: and for that thereby the peoples voyces seemed secretly in some sort to be taken from them by *Roscius* the Tribune, whom it befecmed to haue bene a keeper & preseruer of the popular libertie and dignitie; at such time as he came to behold the playes, he was by the knights (whose fauour he had won) with great acclamation and applause receiued, but of the people with greater tumult and sturre, in so much that *Cicero* the Consull was glad to call all the assembly of the people out of the Theater. And so as a man of great wisdom and eloquence, with a graue oration repressed the peoples insolencie, and with a reproofe and chiding, well befecming the dignitie of a Consull, so appeased the tumult, as that the people returned againe into the Theatre well pleased. Hereof came that speech of *Plinie* in commendation of *Cicero*, *Te suadente tribus Roscio Theatralis legis auctori ignouerunt; notataque se discrimine sedis aquo animo tulerunt*, The tribes (saith he) at thy persuation pardoned *Roscius*, author of the law of the Theatre, and tooke it patiently themselves to bee noted with the difference of their seats and sittings. Now a punishment was set downe by the law of the Theatre, *Ne quis nisi censum equestrem haberet in xiiij spectaret*, That no man except he had a knights wealth, should stand in the xiiij steps or degrees to behold the playes. But when many, their patrimonie being by the ciuill warres wasted, durst not for feare of this Theatral law behold the playes from the foureteene steps or seats, *Augustus* the emperour decreed, That they should not be therewith bound, who themselves or their parents had euer had a knights wealth or abilitie. Now as for the order and degree of women, I meddle not with it; onely I thinke it meet them to be kept far off from all magistracies, places of commaund, iudgements, publike assemblies, and counsels: so to be intentiue onely vnto their womanly and domesticall businesse. And thus much concerning the order and degrees of Citisens. But by what meanes prouision is to bee made against the reuolt and tumultuous stormes of the common people, wee will in due place more at large declare.

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Finis Lib. Terti.



THE FOU RTH BOOKE OF OR CONCERNING A COMMONWEALE.

CHAP. I.

¶ *Of the rising, encreasing, flourishing estate, declining, and ruine
of Commonweales.*

The beginning
of Common-
weales.



The flourishing
estate of com-
monweales en-
dure not long.

LI Commonweales take their beginning either from a Fa-
milie, by little and little encreasing; or els arise at once, as
when a multitude of people as a Colony drawne out of ano-
ther Citie or Commonweale, doe as a young swarme of
bees fly abroad vnto another place: or as a slip or science
pluckt off from a tree, and planted in a straunge soyle, which
taking root, bringeth forth much more plentifull and plea-
sant fruit, than doe those trees which grow vp of small ker-
nels, or of their owne accord. Yet both the one and the
other of these Commonweales, are established either by the strength of some stronger
than themselves, or by the power of some others, who voluntarily had subiected them-
selves together with their libertie, vnto the power and pleasure of others, to be by them
disposed of, as by a soueraigne power without any law at all, or else vpon certaine laws
and conditions betwixt them agreed vpon. So the Commonweale hauing taken be-
ginning if it be well rooted and grounded, first assureth it selfe against al externall force,
and then against the inward diseases of it selfe, and so by little & little gathering strength,
groweth vp vntill it be come to the full perfection of it selfe: which wee may call the
Flourishing estate thereof; which cannot be of any long continuance, by reason of the
chaunges of worldly things, which are so mutable and vncertaine, as that the greatest
Commonweales oftentimes fall euen all at once with the weight of themselves, some
others by ciuill warres, some by popular diseases, but most by the enemies violence, be-
ing as then ruinated, when as they thought themselves most assured: other some by
the wrath of God, being vpon the sudden, and in a moment ouerthrowne: some few
by age growing old, and by their inward sickness taking end. But yet no Common-
weales, finding or feeling greater chaunges or falles than the fairest of them: which for
all that, are not in that to be blamed, especially if the change or alteration come by any
externall force, as most commonly it chaunceth, the fairest things being still the most
enuied at. And as *Demetrius* (he which was called the Besieger) deemed no man more
happy, than him who had longest quietly lined in the greatest abundance of al things,
neuer

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A neuer having tasted of aduersitie, as a man by fortune deemed most abiect and vnworthie, with whom shee should contend or striue: so we see some Commonweales so shamefully buried in pleasures and idlenes, or else so to be corrupted, as that they might well moue any man rather to pitie then to enuie at their state. Wherefore the risings and ruines of the Commonweales are well of vs to be considered, and what the causes be of euery such their conuersion and change before that we giue iudgement of them, or propound them as examples to be imitated and followed. Now I call that a Conuersion of a Commonweale, when as the state thereof is altogether chaunged: as when a Popular estate is changed into a Monarchie; or an Aristocratie into a Democraticie; or contrarywise: For as for the change of customes, lawes, religion, or place, it is but a certaine kind of alteration, the state and soueraigntie continuing still: which may also to the contrarie it selfe be changed, without any change of religion, or lawes, or any other things else, besides them which belong vnto soueraigntie. As when in our time the Florentine popular estate was changed into a Monarchie. Neither is the age or continuance of a Commonweale to be measured by the long standing of a citie, or of the walles thereof, as *Paulus Manutius* seemeth to haue done: who writeth the Venetian Commonweale that now is, to haue stood twelue hundred yeares; which hath yet suffered three changes, as we shall forthwith declare. Sometime it happeneth also no change either of the citie, or of the citicens, of the customes, or religion to be made, or any other force offered, or wrong done to any man; and yet that the state may perish: as when any soueraigne prince willingly subiecteth himselfe, his kingdom, and people vnto the power and obeysance of some other Prince, or else by his testament appointeth some popular Commonweale inheritour of his State and kingdom: As is reported of *Attalus* king of Asia; of *Coelius* king of Alpes; of *Ptolemee* king of Cyrenæ; of *Eumenes* king of Pergamus; of *Nicomedes* king of Bithynia; of *Polemon* king of Pontus, who left the people of Rome heires of those so many their kingdoms: for then those kingdoms were quite taken away, and those Commonweales brought into the forme of Prouinces, and no change made of their Monarchies into a popular Estate. And so contrariwise, if of one or many cities or prouinces be made one or manie Monarchies or popular estates divided in soueraigntie, that is not to be accounted any conuersion or change, but euen a verie beginning of diuers new Commonweales: As when the countrie of the Swissers and the Grisons reuolted from the Germaine Empire, they became eightene Commonweales, euery one of them holding their estates (divided from the other) in soueraigntie. Sometime also of two is made one and the same Commonweale: as were the Romans and the Sabines, their two kings and people being in the same power and league ioyned and combyned together, neither of them subiect vnto the Lawes or commaund of the other; but with equall power both of them growing together into the same citie. And lest the Sabines so ioyned vnto the Romans should haue seemed to haue accrewed vnto another mans kingdom, it pleased them that the names of both the people being taken away or suppressed, they should be called *Quirites*, which name the Magistrates in their orations vnto the people euer after vsed: Albeit that Romulus (who because he would not seeme to endure a fellow in the kingdom with him, had not spared his owne brother) caused *Tatius* king of the Sabines not long after to bee also slaine: wherefore the Sabines Commonweale so perished not, either accrewed vnto the Romans (as some haue bene of opinion) albeit that other people called them neither Sabines, nor Quirites, but Romans: For that that name once giuen vnto the Citie and the people, could neuer more be changed; or for that the name of the Romans was more stately; or else for that those two people so grew together within the wals

What the conuersion and change of a Commonweale is.

The age of a Commonweale how it is to be measured.

Kings which made the Romans their heires.

Diuers changes of commonweales.

of Rome, yet so as that the one became not subiect vnto the other: as it chanceth when the one being vanquished, yeeldeth it selfe vnto the other, and so suffereth the lawes of the vanquisher. Which may serue for the disciding of the question of *Cunens* the lawier, who doubteth, Whither the subiects of the one Commonweale, if they be ioyned into one and the selfe same bodie with the subiects of another Commonweale, be thereby the subiects of them with whom they are so ioyned: which thing *Bartholus* denieth; and for example thereof alleageth *Raimond* Countie of Toulouse, not erring indeed in his resolution of the question, but in the example by him produced; not hauing good regard vnto the treatie made betwixt the Countie and the estates of Languedoc of the one part, and *Lewes* the ix the French king on the other part, wherein it was comprised, That the only daughter of the countie *Raymond* should be espoused to *Alphonfus* countie of Poitiers, the kings brother, with condition, that if they died without heires of their bodies lawfully begotten, the countrey of Languedoc should in full right returne vnto the crowne; yet for all that so, as that the customes of the countrey should not be chaunged; neither any tax imposed without the consent of the estates of the countrey: which hath alwaies bene obserued, the soueraigntie ouer the country and the inhabitants of Languedoc remaining vnto the kings, as it had before that the countie was therefrom exempted. But most certaine it is, that an estate subiect vnto another, maketh not another Commonweale, but onely a part of the subiects.

But that these things may the better be perceined, it is to be vnderstood, that al conuersions and chaunges of Commonweales, are either voluntarie or necessarie, or else mingled of both: and as for necessitie, it is also either naturall or violent: For albeit that the birth of things be more faire and pleasing than their death, yet for all that so it is, that the source and course of flowing nature rauishing all things, giueth vs also to vnderstand, that the one cannot be without the other: so that all things which had beginning, although they haue stood many hundred yeares, yet must at length in time take end and perish also. But, as we deeme that death more tollerable which by little and little creepeth on through the weakenesse of age, or the course of some long lingering disease, and that almost without any sensible feeling thereof: so also may wee say the chaunge or fall of a Commonweale, which proceeding as it were of age, and after hauing endured a long tract of worlds, to be necessarie, and yet not violent: for that nothing can well be called violent, which is agreeing vnto nature: seeing also that the course of euerie things age is certaine, and a certaine ripenesse vnto euerie age appointed: so that in due time to take end seemeth to bee a thing of euerie thing to bee wished for.

The naturall
change or fall
of a Common-
weale.

Now Commonweales be also chaunged some times to the better, and sometimes to the worse, whether such chaunge bee naturall or violent: yet the violent change still hauing violent motions, and so quickly done; and the naturall chaunging still be little and little, and so the lesse felt. But of all chaunges of Commonweales, no voluntarie chaunges is more pleasing or easie than that which is made by the consent and good will of him which hath the soueraigntie, and of his subiects: when as hee which hath the soueraigntie, chooseth rather to yeelde the same vnto the nobility, or the people, than to hold it himselte: as we haue heard *Sylla*, with incredible violence to haue taken vpon him the Dictatorship, and that not without the most cruell slaughter of the people, and so to haue turned the soueraignty of the Commonweale from a popular estate, into a Monarchie; and yet him the same man within foure yeares after, voluntarily and of his owne accord, dispoiling himselte of the Monarchy, which he had co-uered vnder the colour of his Dictatorship, to haue againe restored the soueraignty vn-

The most plea-
sing and easie
change of a
Commonweale.

A to the people, to the great contentment of them all in generall, and the good liking of euery one of them in particular. So also the nobilitie of the state of Sienna, by their common consent, yeelded the soueraignty of that state vnto the people, and abandoned the city themselues, which *Pandulphus* the tyrant, violently afterwards inuaded. And as in mens bodies diuers changes happen from the qualities of the elements, the disposition of the body or the minde, the temperature of the humours, as also from the manner of the education thereof, and diuersity of diet: so also the Commonweale may suffer an vniuersall change or ruine, from friends or enemies externall or internal, or from both, whether it be from good to euill, or euill to good, and that oft times contrary to the good liking of the subiects, who must sometimes as children and mad folkes, be cured euen against their wills, as *Lycurgus*, who changed the lawes and royall state of his country, into a popular government, contrary to the good liking of the subiects, or of the greater part of them; howbeit that in so doing, hee was well beaten of them, and lost one of his eyes (the reward of his vertue) although hee had before renounced the claime and right that he and his successours had vnto the kingdome, as princes of the blood, and nearest vnto the crowne.

C But forasmuch as there are but three sorts of Commonweales, as wee haue before declared: there are also but six perfect conuersions or chaunges thereof, *viz.* of a Monarchie into a Popular estate, or of a Popular estate into a Monarchie: and so likewise of a Monarchie into an Aristocratie, and of an Aristocratie into a Monarchie: and of an Aristocratie into a Popular estate, and of a Popular estate into an Aristocratie. So also of euery estate there be six other imperfect chaunges, or rather alterations; that is to wit, from the Royall estate vnto the Lordlike: from the Lordlike estate vnto the Tyrannicall: from the Tyrannicall vnto the Royall, or from the Royall into the Tyrannicall: from the Tyrannicall into the Lordlike, and from the Lordlike into the Royall. So might one also say of an Aristocratie, lawfull, lordlike or factious: And of a Popular estate, lawfull, lordlike, and turbulent. I call it an vnperfect chaunge, as the change of a lawfull Aristocratie into a faction; or of a Royall estate into a tyranny: for that therein is nothing but the chaunging of the qualities of good gouernors into euil, the Monarchie yet still remaining in the one, and the Aristocratie in the other. I speake not here of the chaunging of a Monarchie into a Duarchie (or soueraigne government of two) for that we haue before declared such a Duarchie to bee comprehended vnder an Oligarchie (or government of few) otherwise a man might make also a Truarchie of three princes, ruling together in one Commonweale (as it chaunced in the Triumvirat of *Marcus Antonius*, *Augustus*, and *Lepidus*) as also a Tetrarchie (or gouernment of foure) and so other chaunges of Commonweals in number infinit: whereof there is not onely no rule or precept to be giuen, but are also of themselves most absurd: For when wee once passe the soueraigne government of one, wee forthwith enter into the popularitie of moe: which as the lawyers say, is still contained in the number of two.

Six perfect conuersions or chaunges of Commonweales.

Vnperfect chaunges of Commonweales.

But besides these conuersions and chaunges of estates, which wee haue already spoke of, it happeneth sometime that the estate of a Commonweale is holden in suspense and sufferance: as after the death of *Romulus*, the people of Rome was a yeare without a Monarchie, a Popular estate, or Aristocratie: For the hundred Senatours which commaunded one of them after another, had no soueraigne power, neither commaunded but onely by commission: true it is, that one might say, That the soueraigntie was againe returned vnto the people, and the charge of command vnto the Senators, vntill that by common consent they had chosen them a king.

A Commonweale sometime holden in suspense.

And some times againe it chaunceth, that the Royall, Aristocratike, or Popular

An Anarchie.

Ind. 27.

Commonweale being quite extinguished, there ensueth a meere Anarchie: when as there is neither soueraignie, nor magistrats, nor commissioners, which haue power to commaund; as it chaunced the people of Israel after the death of *Iephth*, when as their estate was brought to a meere Anarchie, and vpholden onely by the prouidence and power of God alone, the best and greatest king: for so it is in holy writ reported. So likewise at Syracusa, after the death of *Dion*, and in Florence after that the nobilitie was thence driuen out by the people: which so continued a certaine time without gouernment, as a ship without a pilot or gouernour. And so after the death of *Abusabit* king of Fez, that kingdome was in most miserable case eight yeares without a king. As also after diuers murders of many the Egyptian Sultans, the Mammelukes made choyce of *Campson Gaurus*, hauing liued a certaine time in a pure Anarchie. And in like manner the Russians, being wearie and spent with ciuill warres, for lacke of a soueraigne, of themselves made choice of three of the German princes to rule ouer them.

A meere Anarchie the verie ruine of a Commonweale.

Wherefore when an estate is come vnto a meere Anarchie, that is to say, when no man either commaundeth or obeyeth, it is to bee accounted the verie ruine and destruction, and not the chaunging of a Commonweale: although that the families and colleges therein continue friends together. But if the nobilitie or people haue power to create the prince, and he being dead the magistrats shall themselves retain the soueraigne power and commaund: yet is it not therefore to bee deemed an Anarchie, for that the soueraignie is still like againe to fall either vnto the nobilitie, or to the people.

Commonweales sometime together with the people vterly extinguished.

The last point is, when as an Estate or Commonweale is together with all the people quite extinguished: as it hapned vnto the people and seigneurie of Thebes, which *Alexander* the Great vterly rooted out, together with their city, sauing only the house of *Pindarus* the Poet: vpon the entrance wherof was written, *μὴ καίτε σελῶν τῆς Πινδαροῦ*, Burne you not *Pindarus* his house. So also the Madianites, the Amorites, the Iebusites, and Pharezites, were by the people of Israel vterly destroyed: which was not the chaunging of one estate into another, but a meere ruine of the estate with the people together. But yet it may well be, that some one member of a Commonweale, or that some one prouince thereof may be destroyed, or a towne rased, and all the people therein slaine, and yet the Commonweale stand: as it chaunced to the towne of Arzile, in the kingdome of Fez, which the Englishmen rased, and put all the people therein to the sword: and to *Sebastia*, in the kingdome of Amasia, which *Tamarlan* the Tartar king vsed in like sort: and to the towne of Bizance, a member of the Roman empire, which after it had bene three yeares besieged by the emperour *Seuerus*, was in the end taken, sacked, rased, and all the people slaine, and the scite thereof giuen to the Perinthians, who reedified it, being afterwards called Constantinople, and now corruptly Stamboll, the choyce seat of the Turkish emperours.

A thing vnto Monarchies speciall.

But this is in Monarchies speciall and proper, that the Monarches one of them oftentimes by force driuen out by another, do not yet therefore chaunge their estate: as in a few moneths in our remembrance it happened in the kingdome of Telesin, where the king *Abuchemo* was by the people driuen out of his kingdome, and *Abyamein* chosen king in his stead: who forthwith after was also cast out by *Hariadenus Barbarussa*, who long time raigned not there, but that *Abuchemo* returning with the forces of the emperour *Charles* the fift chased away *Barbarussa*, and tooke sharpe reuenge vpon his disloyall subiects, making himselfe the emperours tributarie and vassall: but was againe not long after driuen out againe by *Barbarussa*: the state of a Monarchie yet neuer chaunging, no more than did the Roman empire, for hauing had foure emperours in one yeare; one of them slaine by another: the estate of the Monarchie neuerthelesse still remaining,

A maining as the prize and reward of the victor.

Sometime also rule and soueraignie is euen thrust vpon men by force and against their will: as first *Claudius*, and then *Gordianus* the elder were euen drawne and enforced to take vpon them the Roman empire. And in our remembrance the inhabitants of Tripolis in Barbarie, after they were reuolted from *Iachia* king of Tunes, chose *Mucamen* for their king: who being shortly after poysoned, they vpon the sudden enforced a religious Hermit to take vpon him the crowne and the kingdome; wherein he raigned against his will, vntil that *Peter* of Nauarte, by force tooke the citie of Tripolis, together with the king, whome he sent prisoner into Sicilie: but was afterwards by the emperour *Charles* the fift (to his great contentment) sent backe againe to liue in his

An Heremite against his will chosen and crowned king of Tripolis.

B solitarie cell in Affricke.

But as of men some perish and die in the most flourishing time of their age, some others in their youth, some in their childhood, and some before they could bee well borne; so wee also see some kingdomes and cities to bee cut vp and destroyed before they could strengthen themselues with lawes and armes, other some as abortiues to be dead and extinguished before they were borne: as in our time the kingdome of the Anabaptists at Munster (the metropolitall citie of Westphalia) was taken away and subuerted before it was well thought to haue bene borne. *John* of Leiden, a Sadler, and their ringleader, who had there by the space of three yeares borne himsele for a king, and taken vpon him the soueraignie (though still by the imperiall host besieged) being at last together with the citie taken and publikely executed.

Some commonweales euen in their beginning destroyed.

C Now when I speake of the flourishing estate of a Commonweale, my meaning is

not, that it should be come to the height of most absolute perfection: for that in these transitorie things there is nothing so perfect, and in mans actions lesse than in any thing in the world: but I call that the flourishing estate of a Commonweale, when it hath attained vnto the highest degree of the perfection and beautie thereof; or to say better, then when it is least imperfect, and farthest from all kind of vice: which cannot be well knowne, but after the declination, chaunge, or ruine of euerie Commonweale: As the Romans hauing made prooue of the Royall, Tyrannicall, Aristocratike, and Popular estates and Commonweales, yet neuer flourished more than in the Popular estate:

When the flourishing estate of a commonweale is.

D neither did that their Popular estate euer flourish more in armes and lawes, than in the time of *Papirius Cursor*: *Ille atate, qua nulla virtutum feracior fuit, nemo erat, quo magis innixares Romana, quam in Papirio Cursore staret*, In that time (saith *Linie*) than which none was more plentifull of vertues, there was no man on whome the Roman Commonweale resting staied, than vpon *Papirius Cursor*. This was the iudgement of the Romans, of the most flourishing time of their Commonweale: for neuer after was the militarie and domesticall discipline, the lawes and ordinances better executed, faith better kept, religion more sincerely embraced, nor vices more seuerely punished: So that it ought not to seeme straunge, if there was neuer than then greater store of most valiant and worthy men.

The flourishing estate of the Romaine commonweale to haue bene in the time of *Papirius Cursor*.

E Now if any man shal obiekt and say, That the Romans were then but poore, as not yet got out of Italie, neither hauing as yet extended their armes into Grecia, Asia, and Africke, no not hauing as then so much as subdued Italie, neither that the Capitoll did as then glister with gilded vaults, but was couered with shards: I say againe, That vertue is not to be measured by the foot of wealth and riches; neither the excellencie and perfection of a Commonweale, by the largenesse of the bounds thereof, but by the bounds of vertue it selfe. So that I deeme those their vntrimmed and rough shades and groues, to haue had in them more maiestie and honor, than had afterwards their plea-

The excellencie and perfection of a commonweale how it is to be deemed.

The Romans
commonweale at
the highest in the
time of Trajan
the emperor, and
yet not then in
the greatest per-
fection.

fant greene woods, with the trees most artificially planted in order of the curious Quincunx, and reckon Rome homely and vntimmed, more stately and replenished with maiestie, than when it was neuer so well deckt, and with precious ointments perfumed. For neuer was the power of the Romans greater than in the time of *Traian* the emperour, who ioyned vnto the Roman empire, not onely Arabia Felix, but many other great prouinces also beyond the riuer Euphrates, and with incredible workmanship hauing built a bridge ouer the Danubie, (the remainders whereof are yet to be seene) subdued *Decebal*, with the kingdom of Dacia, & with the Roman legions danted the most cruell and barbatous nations that then lined; when as the citie of Rome it selfe, being head of the whole empire, did so abound and flow with ambition, couetousnesse, pleasures and delights, as that it seemed to retaine no more but the shadow of the auntient vertue thereof. Neither was the Lacedemonian Commonweale then most flourishing, when as it had by force of armies subdued all Grecia, with some parts of Asia also: for now they contrarie vnto the lawes, had giuen way for gold and siluer to enter into the citie, now the discipline of *Lycurgus* seemed to haue beene almost extinct, and so indeed not long after that same Commonweale came headlong tumbling downe. And thus much concerning the differences of the changes of Commonweales, which it is needfull for vs to note, the better to conceiue such conuerfions and changes of estates, which none haue touched heretofore.

The causes of the
changes of com-
monweales.

Now as for the causes of the chaunges of Commonweales, although they bee right many, and hard to be all reckoned, yet so it is that they may bee brought into some certaine number, which may suffice for our instruction. The most common cause of the chaunge of Commonweales is, that when the posteritie of princes failing, the great men fall out among themselves, and so take vp armes for the gouernment of the state: or for the too great pouertie of the greater part of the subiects, and the excelsiue riches of some few: or for the vnequall diuision of estates and honours, or for ambition and the great desire some haue to commaund, or for the reuenge of iniuries, or for the crueltie and oppression of Tyrants, or for the feare that some haue to bee punished for their deserts, or for the chaunging of lawes or of religion, or for the desire of some at full to enioy their pleasures, or for the casting out of them which with their excelsiue and beastly pleasures pollute and defile the place of maiestie and honour. All which causes wee will particularly entreate of, and as need shall bee, manifest the same with examples.

The first monar-
chies to haue tak-
ken their begin-
nings from opres-
sion and tyrannie.

Wee haue now here before declared, That Commonweales had their beginning by violent tyrannies: whereof some haue afterwards continued in the state of Lordlike Monarchies, and other some in Royall Monarchies by right of succession: vnto whome diuers chaunges haue also happened for the causes by vs before touched. And that it is so, all the Histories, both sacred and prophane agree, That the first foueraigntie and forme of a Commonweale had beginning by the Monarchie of the Assyrians, and that the first prince called *Nimroth* (which is to say a *Bitter Ruler*) whome the Histories for the most part call *Ninus*, by force and tyranny made himselfe a soueraigne prince; and that after him his successours continued that Lordlike Monarchie, taking vnto themselves the whole and entire disposition of their subiects and their goods, vntill that *Arbaces* gouernour of the Medes, draue out *Sardanapalus*, which was the last king of the Assyrians, and made himselfe king, without any forme of fashion of election at all. The cause why, being for that *Sardanapalus* drowned in vaine pleasures and delights, was more amongst women than hee was amongst men; a thing which men of courage and valour take most impatiently, to see them-

A themselves subiect to such an one, as hath nothing of a man more than the figure onely. We see also, that the princes of the Medes descended from *Artabazus*, the kings of Persia, of Aegypt, of the Hebrews, the Macedonians, the Corinthians, the Sicionians, the Athenians, the Celtes, and Lacedemonians, are all come by right of succession vnto their kingdomes and principalities, for most part founded by force and violence; but afterward by iustice and good lawes polished, vntill that their posteritie failed (which oftentimes drew after it the chaunging of the estate) or that the princes abusing their power, and euill entreating their subiects, were themselves driuen out or slaine: and the subiects fearing againe to fall into a Tyrannicall gouernment, if they should giue the soueraigntie to one alone, or not willing to endure the commaund of one of their owne companions, founded amongst them the Aristocraticall estates, little regarding the common people: at which time if there were any of the poorer or popular sort, which would also haue had part in the seigneurie or gouernment, they sung vnto them the fables of the Hares, which would commaund together with the Lions: Or if it were that the Monarchie chaunged into a Popular estate, yet so it was neuertheless, that the nobilitie or richer sort still carried away all the great offices and places of state: as for example, *Solon* hauing founded the Popular estate in Athens, yet would not that the poore and common sort of the people should haue part in the estates. Neither the Romans hauing chased out their kings (albeit that they had established a Popular estate) yet so it was, that the honorable offices and preferments were still referued vnto the nobilitie onely. Wee also read, that the first tyrants beeing driuen out, the men at armes and gentlemen were indeed alwaies chosen vnto the honourable places of estate, and the vulgar people still excluded: vntill that *Aristides* and *Pericles* in Athens, and *Camuleius* and the other Tribunes in Rome, first opened the gate of honourable offices and preferments vnto all the people in generall. But afterwards when as it was by long experience found out, That Monarchies were more sure, more profitable, and more durable also, than were the Popular estates, or Aristocracies; and amongst the Monarchies, them also which were founded in the succelsion of the next heires male: these successiue Monarchies were generally received almost throughout all the world, and the Popular and Aristocratike estates driuen out. Yea the people sometime fearing the death of their princes, without heires male, perswaded them whilst they yet liue, to make choice of their successours: as diuers of the emperours of Rome did, and as they yet at this present time doe in many places of Affrike: or else the right of the election of the prince remaineth in the people, the prince beeing dead without heires: yea and in some places the people hauing power for the election of their prince, albeit that their princes haue heires male also: as in the kingdomes of Polonia, Bohemia, Hungarie, Denmarke, Sweden, and Norway, where they haue oft times thrust their kings out of their kingdomes, for staining the maiestie of their gouernment with tyrannie, licentious liuing, or cowardise. So sometimes also the people hauing had a cruell tyrant, chose for him a iust and courteous prince: or hauing had an idle, an effeminate, or contemplatiue prince, make choyce of some valiant captaine: as did the Romans, who after the death of *Numa Pompilius* (to rule their religion together with their policie) made choice of *Tullus Hostilius*, a good captaine. Yea most commonly it chaunceth, that vnto the greatest and most cruell tyrants succeeded the most iust and vpright princes, as men ashamed to follow or imitat the doings of them whose ends they abhorre; or els vpon certaine conditions, hauing taken the soueraigntie vppon them, and so hauing their lesson by writing; haue also their power therein somewhat diminished. So after the vnfortunat end of *Marcus Antonius*, a man altogether giuen to riot and voluptuous pleasure, succeeded the great *Augustus*, a most wise &

The beginning
of Aristocratis.

The greatest hon-
ours and offices
euen in Popular
estates still be-
stowed vpon the
nobilitie and
richer sort of the
people.

A monarchie of
all estates most
sure and durable.

Vnto most cruell
tyrants oftentimes
succeede most iust
and vpright
princes.

Princes natures
much altered by
soueraigntie.

The fairest be-
ginnings of prin-
ces raignes proue
not alwaies the
best.

Why there be so
fewe vertuous
princes?

sober prince. So after the miserable death of *Nero* a most cruell tyrant, succeeded *Galba*,
an emperor most gracious: So after the strange euent of the most drunken and licen-
cious *Vitellus*, succeeded *Vespasian* the most continent: And vnto the monster of na-
ture *Helioabalus* slaine and drawne in the same faction that was *Vitellus*, succeeded
Alexander Seuerus the most vertuous: a thing most strange, considering that he was
his cosin germaine, and together with him nourished and brought vp: and that the
power to commaund in soueraigntie hath this mischiefe in it, that often times it ma-
keth of a good man, an euill; of an humble man a proud; of a mercifull man a tyrant;
of a wise man a foole; and of a valiant man a coward. For what could be more notable
then the first five yeares of *Nero* his raigne? what more excellent then his youth? or
who for modestie was to be compared in the beginning to *Tiberius*? who so behaued
himselfe (as saith *Suetonius*) as if he had almost beene a priuat man: and being of one
called Lord, commaunded him, that he should no more by way of reproach so call
him: and against slanderous and infamous libels made of him, oft times said no more,
but that in a free citie, men ought also to haue their tongues free: but speaking vnto
the Senat: I haue had this good fortune (said he) to haue you for my gracious Masters,
and so long as I liue I will acknowledge you for my good Lords: for a good prince
(said he) must be the slaue not onely of the Senat, but also of all the citisens in generall,
and often times of euery one of them in particular. Neither did he any thing in the be-
ginning of his raigne, no not euen in the least things, without the aduise of the Senat;
and yet afterwards hauing well tasted of the power of soueraigntie, hee became the
most detestable tyrant that euer was for crueltie and voluptuous pleasures. So we read
also that *Herod* the elder raigned six yeares as a good and iust king (as saith *Philo*) and
one and thirtie yeares as a most cruell tyrant, who caused seauentie Senators of the
the house of *Dauid* to be all slaine, which was indeed the whole bodie of the Senate
except *Semneas*, and afterward put to death his wife a most noble gentlewoman, with
three of his owne children: and now lying at the point of death, gaue commaunde-
ment to kill all the best and chiefe of the Nobilitie of the whole land, to the intent that
great mourning might thereby be after his death. Which examples I haue amongst
many other marked, whose beginnings were too faire to continue long: the reason
whereof may well be, for that he which at the first seemeth to be so notable wise and
worthie, must needs dissemble much: wherein *Tiberius* the emperor is said to haue
excelled all others. Whereas of them which haue so curiously learned the art of false
semblant and dissimulation, and haue their countenances at commaund, nothing that
good is, true, or honest, is to be expected; but all things vaine, false, and fained, full of hi-
pocrisie and craft: Whereas he which at the first discouereth his imperfections (albeit
that he be not therein wise) yet can he not possibly be a man exceedingly mischionous
or naught: yea of such an one it is to be hoped, that he may at length proue an vpright
and iust man: such an one as *John* the French king is reputed to haue bene, who was
of such a stomacke, as that he could by no meanes endure to looke aright vpon him
whome he hated or liked not of: And yet for all that we read not of any thing by him
either dishonourable or wickedly done. Neither ought it vnto any man to seeme
straunge, if there haue bene but few princes for their vertues famous: for if euery where
there be such a scarcitie of good and valiant men, and that kings are not chosen out of
the number of such: and that they to whome their kingdomes come by succession,
commonly haue their education polluted with so many vices, as that hard it is to say
which of them is the greatest: it is almost a myracle if one of them shall bee able to get
out of such a gulf of all maner of vices. Yet if any such there shall be, as shall for his
vertues become famous, he as a torch vpon an high place or watch tower, filleth al-
things

- A** things with the light and brightnesse of himselfe : neither is onely whilest he yet liueth highly commended : but being dead, leaueth vnto his children and posteritie also , the most fragrant and sweet smells of his vertue and worth , who though they shall right wickedly liue, yet are they the rather borne with, for their fathers vertues sake . *Camby- ses* did many most cruell and shamefull things, yet was hee alwaies both loued and honoured of his subiects, and redoubted of his enemies , and all for the great loue they bore vnto his father *Cyrus*, which was so well grauen in the harts of the people (as saith *Plutarch*) that they loued euen all such as had a great and rising nose, such an one as *Cyrus* had . And the emperour *Commodus*, albeit that he were a most cruell tyrant , and had in one day commaunded the great Prouost of Rome to kill all the beholders of the playes in the Theatre (which were not fewer than threescore thousand persons) for that they could not forbear laughing, to see him in stead of an emperour, so cunningly to play the Fencer, as if he had bene one indeed; yet was hee neuerthelesse of the people alwaies beloued, for the loue they bare vnto the remembrance of *Marcus Aurelius* his father.

Evill princes euen
for their fathers
vertues often-
times of their
subiects beloued.

- Wherefore we see kingdomes which come by succession , seldome times to suffer change or innouation , albeit that a wicked sonne succeed a good father : for that his kingdom is like vnto a great tree which hath taken as deepe root as it spreadeth branches : whereas he which commeth but newly vnto a kingdom commended nor strengthened with no vertue or power of his auncestours , is indeed like vnto an high tree : which for that it is not well rooted , is with the wind and tempest easily overthrowne . For which cause a tyrant the sonne of a tyrant, must needs raigne in great daunger, except he be with great wealth and the power of his neighbor princes strengthened, or by long discent of his auncestours haue obtained his kingdom . Neither can the verues of a new prince deliuer his vngacious sonne from the conspiracies of his subiects : as it happened vnto *Hierome* a tyrant of Sicilie , who succeeded to *Hiero* his grandfather, a new prince in his kingdom, which he had by no right or claime gained, but was yet for his manifold and great vertues , of a priuat man, thought right worthy of that so great a kingdom , which hee so held almost sixtie yeares, without force or garrison, to the great contentment of all men ; beloued not of his owne subiects onely, but of all his neighbour princes also, and especially of the people of Rome, to whome he was most deere : whose nephew, that he might seeme to excell his grandfather in magnificence and state, thought it better for the assurance of his estate , to strengthen himselfe with strong garrisons of men , and so afterwards wholly giuing himselfe ouer vnto riot and excesse, bare himselfe proudly towards all men, and so drew all mens hatred vpon him : and as for the counsell, the most assured foundation of his grandfathers kingdom, he altogether set it at naught : & to heape vp his mishaps, without any cause why, renounced the amitie and alliance of the Romans . And so hauing lost both all the ornaments of his honour , and the stayes of his assurance , was by the conspiracie of his subiects himselfe with all his friends and kinsfolkes most miserably slaine, and his
- E** Monarchie forthwith chaunged into a Popular estate . The like end almost had *Dionysius* the younger, another king of the same countrey also , and sonne to *Dionysius* the elder, who by fraud inuaded the estate, which he of long time held with strong garrisons and fortresses, without the stay or alliance of any other forren prince : but he once dead, and this his sonne a man vnskilfull of the gouernment , and altogether giuen to riot, succeeding in his place, and banishing his vnckle *Dion*, and confiscating his goods, he was by the same *Dion*, returning out of exile againe into his owne countrey, with an armie thrust out of his kingdom, and all the fortresses of his tyrannie overthrowne : which *Dion* not long after being also slaine, the Monarchie was againe chaunged into a

A new prince
without great
vertues hardly to
maintaine his
estate.

Popular estate. Wherby it is to be vnderstood, new princes without great vertues hardly to maintaine their estate: which although it be a thing right manifest, yet appeareth it more plainly by the example of *Herod* the elder, vpon whome *Cesar* for the valour of *Antipater* his father, by a decree of the Senat bestowed the kingdome of the Jewes: who although he were in great fauour with *Marcus Antonius*, and *Octavianus Augustus*, yet for the better assurance of his kingdome, built most strong castles; and to gaine the good will of his subiects, bestowed great masses of money for reliefe of the poorer sort, and eased the people of a third part of their woonted tributes: but knowing how little he had for all that gained, he tooke also an oath of alleagiance of his subiects, seeking to gaine them of the better sort with extraordinarie fauours and good turnes: and yet for all that he could do, he was so hated of his subiects, that beeing become sickly, the people much reioyced thereat: which he perceiuing, it had almost driuen him into a phrensie. But he being dead, the Jewes sent fiftie ambassadors to Rome, that so eased of that regall government, they might become subiects vnto the Romans, and so happily had obtained to haue bene, had not *Herod* his sonne bene then in great fauour with *Augustus* the emperour, vnto whome the elder *Herod* had before by his will left fiftene hundred talents of gold. Howbeit yet, that all the successours and posteritie of *Herod*, which were in number many, in lesse than threescore yeares, all in poore estate perished, as well for that he being but a new man, was not descended of royall race: as for that his prowesse and valour fayled in his successours.

But these conuersions and chaungings of kingdomes and Commonweales chance so much the rather, if the tyrant be too great an exactor, too cruell, or too much given to his voluptuous and vnlawfull pleasures, or be delighted in all these together: as was *Nero*, *Tiberius*, and *Caligula*: and yet of these, wantonnesse and whoredome hath ruinated moe princes than all the other causes: and so is it also much more daungerous vnto a prince for his estate than crueltie: for crueltie keepeth men in feare and awe, & bringeth a terrour vpon the subiects; whereas wantonnesse bringeth after it an hate and contempt also of the tyrant; forasmuch as euerie man deemeth the effeminate man to be also faint hearted, and farre vnworthie to commaund a whole people, which hath not power ouer himselfe. So we see that *Sardanapalus* king of Assyria, *Canades* king of Persia, *Dionysius* the younger, and *Hierosme*, kings of Sicilie, *Heliogabalus*, *Amyntas*, *Chideric*, *Periander*, *Pisistratus*, *Tarquin*, *Aristocrates* king of the Messenians, *Timocrates* king of Cyrene, *Andronicus* emperour of Constantinoble, *Rhoderike* king of Spaine, *Appius Claudius*, *Galeace Sfortia*, *Alexander Medices*, the Cardinall *Petrucce* Tyrant of Sienne, *Lugrac* and *Megal*, kings of Scots, all for wantonnesse to haue lost their estates, and most of them slaine vpon the fact doing. Neither is it long since *Delmending* and *Delmedin*, two of the greatest cities of Affrike, were by rebellion dismembred from the kingdome of Fez, and brought vnder the obeysance of the Portugals, for a maiden by force taken from her husband to whome she was betrothed, by the gouernour, who was therefore afterwards slaine: as was also *Abusahid* king of Fez himselfe with his six children all massacred by a secretarie of his, for hauing abused his wife. Neither for any other cause did the people of Constantine (a sea towne in Affrike) chole rather to suffer the commaund of *Delcaid* a Christian renegat, than to obey the king of Tunes his sonne. And why in our time was *Muleasses* thrust out of his kingdome, and so lost his estate, but for intemperance? and yet neuerthelesse was so drowned in delights, as that returning out of Germanie, without hope that the emperour *Charles* the fift (in whom his greatest trust was) would afford him any aid, and banished as he was out of his kingdom, yet spent he an hundred crowns vpon the dressing of one peacock, as *Paulus Iouis* reporteth: and to the end he might better conceiue the pleasure of musick, stil coue-

That is nine hundred Thousand crownes.

Couetousnesse, crueltie, and the voluptuous liues of princes, oftentimes the causes of the change or ruine of their estates.

Voluptuousnesse more daungerous vnto a prince than crueltie.

A red his eyes, as hauing learned a double pleasure, not to bee so well perceiued by two senses at once: yet such was the iudgement of God vpon him, as that by the commandement of his sonnes he had his eyes put out with an hot barre of Iron, by little and little drying vp the humors of them, and deprived of his kingdome also.

But for the crueltie of a prince, the estate easily chaungeth not. if he be not more cruel than the wild beasts themselves, such as were *Phaleris*, *Alexander Phereus*, *Nero*, *Vitellius*, *Domitian*, *Commodus*, *Caracalla*, *Maximinus*, *Ecelinus* of Padua, and *John Maria* of Millan, who were all flaine, or driuen out of their dominions, and their Tyrannical estates for the most part changed into estates Popular. Which befell them not so much for the crueltie by them vsed against the common sort of people (wherof no reckoning nor account is made in a Tyrannical estate) as for crueltie committed in the person of the great and best friended, who are alwayes of tyrants to bee feared: vnto whome euen contumely and disgrace is oftentimes more grievous than crueltie it self: wherof we haue a domesticall example of that *Bodile*, who for that he was by the commandement of *Childeric* king of Fraunce whipped, slew not onely the king, but the queene also, being then great with child. So was also the emperour *Iustinus* the third flaine by *Atelia* generall of his armie, whose sonne he had flaine, and in despite prostituted his wife vnto his seruants. And *Archelaus* king of Macedon, was likewise flaine by him whome he had put into the hands of *Euripides* the poet, to be whipt: as was his nephew also king of Macedon, flaine by him whome hee had without punishment suffered to be abused against nature by *Antipater*, and scorned him crauing of him reuenge.

Extreme crueltie
oftentimes cause
of the change of
the princes estate

The Aristocratike estate also of them of Mitylein, was chaunged into a Popular, for that it chaunced certaine gentlemen as they went along the streets with their bastanadoes, in sport to strike all such of the common people as they met: Wheteupon one *Megacles* tooke occasion to stirre vp the comminalltie to fall vpon the nobilitie, and so to kill them. And not to seeke for examples farther, *Henry*, of late king of Sweden (but now a prisoner) was also thrust out of his kingdome, for that he not onely disdainfully reiected the request of a certaine gentleman his subiect, but also with his owne hand most cruelly stabbed him with his dagger: wherewith the nobilitie and people moued, tooke him prisoner, and enforcing him to resigne his kingdome, gaue it to his younger brother, who now raigneth. And almost alwaies the tyrants-quellers haue receiued either the estate or goods of the tyrants by them flaine, or the greatest honours and preferments in the state, as rewards due to their deserts. So both the one and the other *Brutus*, obtained the greatest estates in Rome; the one of them for hauing driuen out the proud king *Tarquin*, and the other for hauing slayne *Cesar*. And *Arbaces* gouernour of the Medes hauing brought *Sardanapalus* king of Assyria to such extremitie, as that he was glad to burne himselfe aliue together with his concubines and treasures, for reuward enioyed his kingdome. So *Lewes* of Gonzaga hauing flaine *Bonacosse*, tyrant of Mantua, was by the subiects chosen their prince, his posteritie euer since by the space of about two hundred and fiftie yeares hauing enioyed that estate. And the Venetians hauing flaine the tyrant *Eceline*, obtained the seigneurie of Padua.

Rewards still gi-
uen vnto the kil-
lers of tyrants.

Some others there be, which seeke the tyrants death, and so the chaunge of the estate, hauing nothing before their eyes but the desire of reuenge; and that without either the feare of God, the regard of their countrey, or loue of their neere and dearest friends: as he which to be reuenged of king *Roderike*, who had rauished his wife, drew the Mahometan Moores into Spaine, who draue out the king, and there vsing an hundred thousand cruelties, possessed the kingdome of Spayne, which they held by the space of seuen hundred yeares after. And some others there bee also, who neither for

Some for desire
of reuenge, and
some for the de-
sire of honor and
the deliuerance of
their countrey, to
haue procured
the tyrants death
and so the chang-
ing of the estate.

hope

hope of bearing of rule, of preferment, or of wealth: neither for reuenge of wrongs, nor for any other priuat injuries receined, are yet induced to the killing of a tyrant, without hope to be able by any means to escape therefore a most sharpe and cruell death, respecting onely the deliuerance of their countrey, and the honour of the fact: such as were *Harmodius*, and *Aristogiton* in Athens, and those which slew *Domitian* and *Caligula* the cruell emperours. A thing which most commonly happeneth in the Popular estates, wherein the new tyrants by force or fraud hauing oppressed the libertie of the people, are neuer assured of themselves, or of their estate, without great and strong garrisons about them. So we see *Alexander Medices*, nephew to pope *Clement* the seuenth, & sonne in law to the emperour *Charles* the fift, by whose forces and power hee obtained the soueraigntie of Florence, and draue out them also that were of greatest power and courage in the state, to haue compassed himselfe with great and strong garrisons, and alwaies to haue gone armed, in such sort as that it seemed almost impossible to find the meanes to come neere him, and yet for all that to haue bene slaine by the conspiracie of *Laurence Medices*, not onely his neere kinsman, but his most familiar and domestick friend also: when as the said *Laurence* had promised to prostitute vnto him his owne sister; that so he might the better deliuer the man disarmed (euen as he was kissing and embrasing his sister, whome he thought to haue rauished) to the murtherer to be slaine: which was so couertly done, as that the souldiours of his guard, whome he kept for the safte of his person, making merrie in a dining chamber fast by, perceiued nothing of the murther of their prince. And yet in so doing, the said *Laurence* neither deliuered his countrey from tyranny (whereinto it by and by after againe fell) neither himselfe from daunger, being at length by a murtherous fellow himselfe also slaine at Venice. And *Cosmus Medices*, who after the death of *Alexander*, by the helpe of the garrison souldiours, the suppottation of his friends, and fauor of the pope, obtained the same gouernment; albeit that he was reported to haue bene one of the wisest princes of his age, or of long time before him, and a right great iusticier, euen by the report of his enemies themselves, and had diuers strong castles euen in the citie it selfe: yet neuertheless was he an hundred times in daunger of his person, by the conspiracies of his subiects against him, being not able to endure a maister ouer them, albeit that hee were both iust and vertuous. And he which now reigneth, not long since missed not much to haue bene slaine by the conspiracie of *Puccinus*, neither can bee safe without a strong garrison, so long as the citicens his subiects shall either remember or hope for the rewards of their valour and libertie. And for this cause *Dionysius* the elder of Syracuse, being chosen generall, and hauing made himselfe maister of all, and chaunged the Popular estate into a Monarchie, had alwaies forty thousand souldiours in readinesse at his call to set forward, beside a great garrison still attendant about his person, and diuers strong holds, onely to keepe the people of Syracuse with a part of Sicilia in subiection. And yet neuertheless was he no tyrant, as we call a tyrant, that is to say, a cruell, vitious, and naughtie man: neither was he euer amorous of other mens wiues, but to the contrarie sharply reprobued his sonne (as saith *Plutarch*) for hauing taken away one of his subiects daughters, saying, That he should neuer haue one to succeed him in his estate, if he vsed such fashions: as indeed it fell out with him, being shortly after his death chased out of his kingdome.

Now if any man shall obiekt and say vnto mee, That force and feare are two euill masters for the maintaining of an estate: true it is, and yet needfull for a new prince to vse, who by force changeth a Popular estate into a Monarchie, a thing altogether contrarie vnto a Monarchy Royall; which the lesse guard it hath, the surer it is: & therefore the wise king *Numa* put from him the three hundred archers which *Romulus* his prede-

- A** predeceffour had taken vnto him for his guard, faying, That hee would not diftruff a people which had willingly and of themfelues put their truft in him: neither yet commaund ouer them which fhould diftruff him. But *Seruius* hauing of a flauē made himfelfe a king; befet himfelfe with ftrong guards, and that wifely, as beeing forfaken of the Senators; who tooke his feruile gouernment in great euill part: For as iuft, pleaſing, & gracious, as he was, yet had it bene a thing impoſſible for him without guards, gariſons, and fortrefſes, long to haue maintained himfelfe and his ſo new an eſtate, but that he ſhould haue fallen into the hands of his enemies. There was neuer a more gracious; magnificent, noble; couragious, or courteous prince then *Ceſar*; and yet notwithstanding, all theſe his great vertues were not able to preferue him, but that he
- B** was by his ſonne *Brutus* and other the conſpirators with incredible conſent and fidelitie combyned againſt him, in the middeſt of the Senat moſt cruelly ſlaine: who being before warned to take vnto him a guard for the ſafetie of his perſon, frankly answered, that he had rather to die once for all, than ſtill to languish in feate: wherein he did not wifely ſo to reſuſe a guard, hauing pardoned his greateſt enemies (whom he ſuffered ſtill to liue) and deſiring to chaunge into a Monarchie the free eſtate of the moſt warlike people that euer was in the world. Which his courſe *Auguſtus* his ſucceſſour followed not, but firſt cauſed to be put to death all the conſpiratours againſt *Ceſar*, (not ſo much in reuenge of the death of his vnckle *Ceſar*, as he pretended, as ſo to provide for his owne ſafetie) after that hee ſtill guarded with a ſtrong guard about him,
- C** eaſely kept himfelfe from the violence of his enemies: And albeit that hauing quite diſcomfited and ouerthrowne *Sextus Pompeius*, and *Lepidus*, and overcome *Marcus Anthonius* in battell at Actium, (who afterwards alſo ſlew himſelfe) and the other citizens of greateſt force and courage, either in battell ſlaine or otherwiſe taken out of the way; he might haue ſeemed to haue bene able to haue reigned in great ſecuritie: yet neuertheſſe hee diſperſed fortie legions into the prouinces, placed three legions in Italie, and that not faire from the citie, kept a ſtrong guard about him for the ſafetie of his perſon: forbid the Senators without leaue to depart out of Italie, and committed the gouernment of his legions not vnto any the great Lords, but to gentlemen onely, or ſome of the meanest of the nobilitie. As for the creating of the officers of the citie, he diuided it betwixt himſelfe and the people; yet ſo as that of ſuch as ſtood for them, he would bring ſome of them by the hand vnto the people, and ſo recommending vnto their choice them whom he wiſhed to haue preferred vnto the offices and honors: he tooke from the people their free choice, and had the magiſtrats ſtill beholden and bound vnto him. Juſtice he daily adminiſtered, without intermiſſion, receiuing and anſwering euery mans requeſt, hauing alwaies before him the records of the publike reuenues of his forces, and of the prouinces, ſo that he alone ſeemed to diſcharge all the duties of all the officers. Whereby it euidently appeareth him to haue bene a ſole Monarque, and ſoueraigne Prince, whatſoeuer faire title of a Tribune of the people, or of a Prince, was by one or other giuen vnto him. That is alſo reported
- E** to haue bene of him verie popularly done, in that he commaunded debts due to the Commonweale, which were growne by the ciuill warres, and the records of the debtors to be torne and burnt. And yet this ſo mightie a Prince, endued with ſo great vertue & wiſedome hardly eſcaped the hands of the wicked conſpirators againſt him, albeit that the moſt desperat and dangerous ſort of them were now long before dead. But after that the ſubiects hauing by little and little made prooſe of his juſtice and wiſedome, taſted of the ſweetnes of long peace and aſſured tranquillitie, in ſteed of cruell and bloodie ciuill warres,, and that they had to doe, rather with a father than with a lord (as ſaith *Seneca*) and ſo began to loue and reuerence him: he againe on his part

The notable wiſedome of *Auguſtus* in his gouernment, for the eſtabliſhing of his eſtate.

discharged his guard, going as a priuat man sometimes with one man; and sometimes with an other without any other companie; and so laide the foundation of that great Monarchie, with the most happie successe that euer Prince did. F

How Aristocracies or Popular estates are changed into Monarchies.

Now all Monarchies newly established by the change of an Aristocratie, or Popular estate, haue as it were taken their beginning, after that some one of the magistrats, captaines, or gouernours, hauing the power of the state in his hand, hath of a companion made himselfe Lord and soueraigne, or else that some straunger hath subdued them, or that those states haue willingly submitted themselues vnto the lawes & commandements of some other man. As for the first point, and the most ordinarie change of these estates we haue examples enowe. For so *Pisistratus*, when he had got the chiefe office in the common weale, invaded the libertie of the people: as did also *Cypselus* at Corinth, *Thrasybulus*, *Gelo*, *Dionysius*, *Hiero*, *Agathocles* at Syracusa, *Panatinus*, and *Iceles* at Leonce; *Phalaris* at Agrigentum; *Phidon* at Argos, *Periander* at Ambrace, *Archelaus* in Candie, *Euagoras* in Cyprus, *Polycrates* in Samos, *Anaxilaus* at Rhegium, *Nicocles* at Sicyon, *Alexander* at Pherece, *Mamercus* at Catana, the *Decemviri* at Rome, and there after them *Sylla* and *Cesar*: the *Scaligers* at Verona, the *Bentinoli* at Bolonia, the *Manfreds* at Fauentia, the *Malatestes* at Ariminum, the *Baleones* at Perusium, the *Vitelles* at Tifernas, the *Sforces* at Millan, and diuers others of like sort, who of gouernors of cities and armies haue taken vpon them the soueraigntie. For in matters of estate it may be holden for an vndoubted maxime, that he is master of the estate, which is master of the forces. Wherefore in well ordered Aristocraticke and popular Commonweales, the greatest honours are graunted without power of commaund, and the greatest powers to commaund are not graunted without a companion therein: or if it be dangerous to diuide the power of commaund to many, as in matters of warre it is; then the power so graunted vnto the magistrat or Generall ought to be but short. And therefore the Romans made chiefe commanders their two Consuls: and the Carthaginians their two Suffets, who euery other day commaunded by turnes: For albeit that the dissention which is commonly betwixt them which are in power equall, is sometimes an hinderance for the execution of good and profitable things: yet so it is that such a commonweale so gouerned is not so subiect to be turned into a Monarchie, as it were if it had but one chiefe and soueraigne magistrat: as the great *Archon* at Athens, the *Prytani* with the Rhodians, the yearly *Generall* with the Achæans and the Ætolians, and the *Duke* at Genes. And for the same cause the Dictatorship in Rome continued no longer then the charge required, which neuer passed six monethes at the longest; yea and sometime lasted but one day; which time expired, the power to commaund ceased: and if so be that the Dictator did for any longer time retaine his forces, he might therefore be accused of treason. And in Thebes, so long as it was a Popular estate, the law was that the Generall of the armie should be put to death, if he retained the forces aboue a day after the appointed time: which was the cause that the great capitaines *Epaminondas* and *Pelopidas* were condemned to death, for hauing retained their forces foure monethes after the time, howbeit that they were by necessitie constraigned so to doe, neither could without the great danger of the State haue otherwise done. And so for the same reason almost all the Magistracies are annuall, in Aristocraticke and Popular Commonweales. Howbeit that in Venice the six Councelours for the estate which are assistant vnto the Duke, continue but two monethes in their charge: and he that had the keeping of the principall fortresse of Athens, had the keyes thereof but for one day onely: no more then hath the capitaine of the castle of Rhaguse, who chosen by lot, hath the charge but for a day, and is led into the castle hoodwinkt. It behoueth also in popular G
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Master of the forces, Master of the Estate.

Orders necessary for the maintenance of Aristocraticke and popular commonweale.

A lar & Aristocraticall Commonweales so much as possible is, to beware that the lawes and ordinances concerning the Magistrats time be not changed, neither their charge prorogued, if the necessity be not verie great: as the Romans did to *Camillus*, to whom the Dictatorship was prorogued for six monthes, which had neuer to any other person beene graunted. And namely by the law *Sempronia* it was straitly forbidden that the governments of Prouinces should be graunted vnto any for longer time than five yeares: which law had it beene kept, *Cesar* had neuer invaded the estate as he did, hauing the gouernment of the Gaules by the consent of *Pompeius* and *Crassus* graunted for five yeares more than the law allowed of; whereunto in that point was derogated in fauour of him. Which was a notable oversight, considering that they had to doe with the most ambitious man that euer was; who so well grounded his power to continue, that he gaue at one time vnto *Paulus* the Consull nine hundred thousand crownes, to the intent that he should not oppose himselfe against his enterpises; and vnto the Tribune *Curio*, fiftene hundred thousand crownes to take his part. The people of Rome moreouer allowing him pay for ten legions of souldiers so long as the warres in Fraunce should last. Which so great a power was ioyned with the hardiest hart that then liued, and the most valiant that euer was, and descended of so noble an house, as that in an oration vnto the people he doubted not to say, That by the fathers side he was descended from the gods, and by the mothers side from kings; and yet withall so modest, as that his great enemy *Cato* said, That there was neuer so modest a tyrant as he, and withall so vigilant: as that *Cicero* an other great enemy of his, (who conspired his death) callieth him in one of his Epistles, The monster of wisdom & incredible diligence: and moreouer so magnificall and popular as euer any was, sparing for no cost for the setting forth of playes, iusts, tournies, feastes, largesses, & other publike delights: In which doing he vpon the publike charge woon the harts of the common people, and gained the honour of a most gracious and charitable man towards the poore. And yet for all that hauing by this meanes gained the soueraigntie, he sought for nothing more than by all meanes to clip and cut off the wealth & power of the people, and to take from them their priuileges: for of three hundred and twentie thousand citisens which still liued of the publike corne which they receiued, he retained but an hundred and fiftie thousand, and sent fourescore thousand ouer the sea into diuers Colonies a farre off: and beside that tooke away most part of their fraternities, corporations, and colleges. In brieft it hath alwaies beene seene in all changes of Aristocratique and popular Commonweales, them to haue beene still ruinated, which haue at any time giuen too much power vnto the subiects whereby to exalt themselves: Which thing *Iulian* the Apostata ment by that his embleame, or deuise of an Eagle shot thorow with arrowes fettered with his owne feathers, being before pluckt from her. For so do the soueraigne gouernors and magistrats of those estates, especially when too great power is giuen to him which is of too ambitious and haucie a mind. And thus much concerning the chaunge of a Popular or Aristocraticall estate into a Monarchie, wherein one of the subiects maketh himselfe Lord thereof.

To chaunge the lawes and ordinances concerning the magistrats time, or to prorogue his charge, a thing most dangerous in an Aristocratique or Popular Commonweale.

Wonderfull bribes giuen by *Cesar* in aspiring to the estate.

Aristocratique and Popular Commonweales still ruinated by the subiects, hauing too much power committed vnto them.

E But the chaunge of a Popular estate into an Aristocratique chanceth commonly vpon the losse of some great battell, or other notable detriment of the state, receiued from the enemy: as to the contrarie the Popular power then most encreaseth when it returneth from the warres with some great victorie ouer their enemies. Of which manner of chaunges as there are many examples, so is there none more fit than those of the Athenians and Syracusians, two Commonweales of the selfe same time: when as the Athenians by the default of *Nicias* their generall, vanquished by the Syracusians and so discomfited, forthwith chaunged their Popular estate into an Aristocratique of foure

The mutuall chaunge of a popular estate into an Aristocratique, and of an Aristocratique into a Popular estate.

hundred men, who yet bare themselves for five thousand by the deceit of *Pisander*: so that the people complaining themselves to be so spoiled of the soueraigntie, and coming to giue voice in the councell, was thence repulsed & driuen backe by the forces which the foure hundred had in their power, wherewith they slew diuers of the people and discouraged the rest: at which varie time the Syracusians proud of their victorie (to the contrarie) chaunged their Aristocratie into a Popular estate. And within a while after the Athenians hauing heard news of the great victorie of *Alcibiades* against the Lacedemonians, tooke vp armes against the foure hundred of the nobilitie, whom they by the leading of *Thrasybulus* thrust out or slew, and so againe chaunged the Aristocratie into a Popular estate. And in like manner the Thebans ouercome by the Enophites, chaunged their Popular estate into an Aristocratie. And albeit that the Romans hauing lost two great battels vnto *Pirrhus* changed not their popular estate, yet so it was that indeed it was then a faire Aristocratie of three hundred Senators which governed the estate, and but in appearance and show a Democratic, or a Popular estate, the people being neuer than then more calme and tractable. But so soone as the Romans had gained the estate of Tarentum, the people forthwith began to see vp their hornes, demanding to haue part in the lands which the nobilitie had of long time possessed. And yet neuertheless afterwards, when as *Hannibal* had brought the Roman estate into great extremitie, the people became as humble as was possible: but after that the Carthaginians were ouercome, king *Perseus* ouerthrowne, *Antiochus* put to flight, the kingdome of Macedonia and Asia subuerted; then immediatly againe followed the sturres for the diuision of lands, and the turbulent seditions of the *Gracchies*, wherewith the Tribunes armed the people in most insolent manner, insulting vpon the nobilitie. In like manner the Florentines ouerthrew their Oligarchie, established by Pope *Clement* the seuenth, restoring the people againe vnto their wonted libertie: for so soone as newes was brought vnto Florence, That Rome was by the imperials sackt, and the Pope with the rest of the Cardinals and Bishops besieged; it is not to be beleueed, with what pride the headstrong people began to rage against them of the house of *Medices*; with what furie they cast downe their statues, defaced their armes, and reuerfed all their decrees and lawes. The Popular estates of the Swis-
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 sers indeed first tooke their beginning from the pride and insolencie of the gouernours of those places, but yet had their greatest encreasings after the victorie of Sempach, about the yeare 1377, at which time the nobilitie being with a great slaughter ouerthrowne by the rural people, there was no more talking of Aristocracies, nor of acknowledging of the soueraigntie of the empire ouer them, in what sort soeuer. But the chiefe cause of these conuersions and chaunges of these estates, is the rash vnsaidnesse and inconstancie of the people, without discourse or iudgement moued with euerie wind; which as it is with a little losse discouraged, so is it also after any victorie intollerable; neither hath it any more deadly or dangerous enemy, than too much felicitie and prosperous successe of the affaires thereof; nor a wiser maister than aduersitie and distresse, wherewith it daunted and discouraged, learneth to rest vpon the councell of the wiser
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 sort, leauing the helme of the estate for them to gouerne, which they themselves in such tempestuous times know not how to hold. Whereby it is to be perceiued, nothing to be more profitable for the preferuation of a Popular estate, than to haue warres, and to make enemies for it if otherwise it haue none. Which was the principall reason that moued *Scipio* the yonger so much as in him lay, to hinder the raising of the famous citie of Carthage, wisely foreseeing, that the people of Rome being altogether martiall and warlike, if it had no enemies abroad would at length be enforced to make war vpon it selfe. For which cause also *Onomadesius* generall of the Commonweale of Chio,

Nothing more
 profitable for
 the preferua-
 tion of a Po-
 pular estate
 than warres.

A Chio, hauing appeased the ciuill warres, and driuen out the most mutinous, would by no meanes banish the the rest, albeit that he was earnestly perswaded so to doe, saying That so it would be daungerous, least (that hauing cast out all the enemies) they should fall together by the eares with their friends. Howbeit that this reason which hath place for the straunge and fotten enemies, is not yet to bee receiued for the maintaining of enemies at home amongst the citisens themselues: and yet in this case hee did but that which best becomed him, and was also most expedient. For he that will haue the vpper hand in ciuill warre, if he shall banish all them that take part with the faction contrarie to his owne, he shall then haue no hostages at all left, if the banished shall prepare new warres against him: but hauing slaine the most outrageous and daungerous, and banished the most mutinous, he ought still to retaine the remnant; for otherwise hee is to feare least all the exiled together, making warre vpon him, without feare of their friends at home, should so by force ouerthrow their enemies, and chaunge the Popular estate into an Aristocratie. As it happened vnto the Heracleans, the Cumans, and the Megarense, who were chaunged from Popular estates into Aristocracies, for that the people had wholly driuen out the nobilitie, who with their friends combining their forces, and possessed of these three commonweales, ouerthrew therein the Popular estates, and againe established Aristocracies.

C Yet amongst other conuersions and chaunges of Commonweales, the chaunge of a Popular estate into a Monarchy oftenest happeneth; and that either by ciuill warres, or through the ignorance of the people, hauing giuen too much power to some one of the subiects, as we haue before said. For *Cicero* speaking of the ciuill warres betwixt *Cesar* and *Pompey*, saith, *Ex victoria cum multa, tum certe Tyrannis existit*, Of victorie ensue many things, but especially a Tyrannicall gouernment. For that almost alwaies in ciuill warres the people is diuided: wherein if it so fall out, that the leaders of the factions bring the matter vnto the tryall of a battaile, no man can doubt but that hee who therein shall carrie away the victorie, possessed of the forces and powers, shall either for ambition and the desire of honour, or for the safte of his person, keepe vnto himselfe the soueraigntie. Whereas contrariwise Tyrannicall gouernments (for the most part) chaunge into Popular estates. For that the people which neuer knoweth how to keep a meane, the Tyrannicall gouernment once taken away, desiring to communicat the soueraigntie vnto them all, for the hatred that it beareth against Tyrants, and the feare that it hath to fall againe into tyranny, becommeth so furious and passionat, as without reason or discretion to fall vpon all the kinsmen and friends of the tyrant, and not to leaue one of them aliue: whereof for the most part ensueth the slaughter, exile, & proscription of the nobilitie; in which case euery man of valour, courage, and worth, chuseth rather to shunne the furie of the most headstrong people, as the raging of a wild beast, rather than to beare rule ouer it. As it happened at Athens, after that *Pisistratus* was slaine; at Rome, after *Tarquin* the proud was driuen out: at Syracuse, after *Hiero* slaine, and againe after that *Dionysius* was banished: at Florence, after that the duke of Athens (who afterwards died Generall in the expedition of Poitiers) was driuen out: at Milan, after that *Galuagno* the tyrant had there lost his estate, where the people of Milan for fiftie yeares after, held a Popular estate, vntill that at last it was againe chaunged into a Tyrannicall gouernment by the *Torefans*. Neither did the *Swissars* otherwise establish that their Popular estate (which by the space of 260 yeares hath continued euen vnto this day) but by killing of the tyrannicall deputies of the empire, tyrannizing ouer them. The like we see to haue happered in Thessalie, after that *Alexander* the tyrant of the Phereans was slaine: and in Sienna, after that *Alexander Dichi* the new tyrant, was by the conspiracie of *Hierome Seuerin* slaine, and his partakers of the

Popular estates
most commonly
to chaunge into
Monarchies.

Tyrannicall go-
uernments most
commonly to
chaunge into po-
pular estates.

nobilitie *De Monte Nouo* cast out, slaine, and banished, the people forthwith tooke vp-
 on it the soueraigntie. Neither is it to be doubted, but that the Florentines, after the
 death of *Alexander Medices* the new tyrant, would haue taken the gouernment from
 them of the house of *Medices*, and reestablished their Popular estate, if they had cer-
 tainly knowne the tyrant to haue bene slaine: but when as almost onely *Laurence*
Medices with *Caracciolus* the murtherer were priue to the murther (supposed to bee
 not onely the tyrants familiat and domesticall acquaintance, but his most inward friend
 also) no man could by him be perswaded, that he had slaine the tyrant: but so by pre-
 sent flight making shift for himselfe, gaue opportunitie to young *Cosmus Medices* his
 cosen (who then had the forces of the estate in his power) to take vpon them the so-
 ueraigntie. But this conuersion or change of Tyrannicall gouernments into Demo-
 cracies, or of Democracies into Tyrannicall gouernments, most commonly happe-
 neth, as we haue said, by occasion of ciuill warres: for if a strange enemie become lord
 of any Popular estate, he commonly ioyneth it vnto his owne: which is not then to
 be called a change, but a destruction of that Commonweal, so vnto the victors;
 except the victor (which seldome times happeneth) restore vnto the vanquished their
 libertie and gouernment: as the Lacedemonians chose rather that the confederat ci-
 ties of the Athenians, by them ouerthrowne in the Peloponesian warre, yea and that
 euen the citie of Athens it selfe also, should enioy their wonted libertie, than to be ioyn-
 ed vnto the Lacedemonian estate: howbeit yet that the Lacedemonians in euerie
 place established Aristocracies for Popular estates, quite contrarie vnto the manner and
 fashion of the Athenians, who in all places went about to ouerthrow Aristocracies, and
 to establish Democracies or Popular estates. So that it differeth much, whether the
 conuersions or changes of Commonweales proceed from a forren and straunge ene-
 mie, or else from the citisens themselves.

The sickelness
 of the people of-
 tentimes cause of
 the change of the
 estate.

Sometime also the people are so fickle and fantastickall, as that it is almost a thing im-
 possible for them to hold any one estate, which it is not by and by againe wearie of: as
 we may say of the auntient Athenians, Samians, Syracusans, Florentines, and Geno-
 wayes; who after they had changed from one estate or forme of gouernment, would
 by and by haue another. Which phantastickall disease most commonly chanceth vn-
 to such Popular estates, as wherein the subiects be too wise and of too subtil spirits, as
 were those whome we haue before spoken of: For amongst them euerie man thin-
 keth himselfe worthy to be a commaunder, whereas where the subiects be more gros-
 ser witted, they the more easily endure to be by others ruled, and more easily yeeld vn-
 to other mens aduises, than doe they whome you must with the multitude of argu-
 ments and subtiltie of wit conuince, before you shall persuade them vnto any thing:
 so subtilising their reasons, as that oftentimes they vanish euen into smoke; whereof
 ariseth an obstinacie of conceit, alwaies enemie vnto wise counsels, with diuers chan-
 ges of Commonweales. As a man may easily see in *Thucydides*, *Xenophon*, and *Plu-
 tarch*, the Athenians lesse than in an hundred yeares, six times to haue chaunged their
 estate; and since them the Florentines seuen times: which so happened not neither vn-
 to the Venetians, nor Swissers, men not of so sharpe a wit. For who knoweth not the
 Florentines to be most sharpe witted men? but the Swissers to haue alwaies bene men
 of a more dull spirit? And yet when as they both almost at the same time, chaunged
 their Monarchie into a Popular estate, the Swissers haue therein so maintained them-
 selues now almost three hundred yeres: whereas the Florentines not long after changed
 their estate into an Aristocracie; they which in nobilitie and wealth exceed the rest, al-
 together disdaining to be made equall with the common sort of the people. But the
 nobilitie hauing so got the soueraigntie, began also to strue amongst themselves for
 the

The fickle and
 turbulent estate
 of the Florentines.

A the principallitie: and with mutuall hatred and proscriptions so weakned themselves and their estate, as that they were by the people taking vp armes against them easily ouercome and put to flight. But the nobilitie (and so the Aristocraticall estate) thus ouerthrowne, the popular sort, and they of them especially which were called the Grandes (or great ones) began to strue and contend among themselves; for the gouernment of the state: and yet these much more cruely than had before the nobilitie; for that they contended not by forme of iustice, or of law, but by verie force of armes, and dint of sword; who hauing with mutuall slaughters spent themselves, the middle sort of the people (for they were diuided into three sorts) began to take vpon them the manning of the estate: but these also falling together by the cares for places of honour and commaund, the verie basest and refuse of the rascal people, became too strong for them, filling all places with the blood and slaughter of them, vntill they had driuen out and slaine the most part of them. Now these also of the baser sort become masters of the estate; and hauing no more enemies left with whome to strue, began at length to struggle with it selfe, and made such cruell warre vpon it selfe, that the blood ran down the streets, yea & that most part of the houses were with fire quite consumed, vntill that they of Luca moued with their great miseries and distresse, comming in great companies to Florence, exhorted them their neighbours to lay downe armes; and to seeke for peace: by whose good speeches they perswaded at last, ceased from their slaughters & butchering of one another. Whereupon to end the matter, they sent ambassadours vnto the pope, to send them some one descended of royall blood, to rule and raigne ouer them: where by good fortune therè was then at Rome *Charles* of Fraunce brother to king *Lewes* the ninth, who at the request of the pope, and of the Florentines themselves, came to Florence, and with the good liking of the people in generall, tooke vpon him the gouernment, ended their quarrels, and reconciled the citisens among themselves, together with the Commonweale: and so hauing appeased the citisens, and reformed the Commonweale, being inuited to the kingdome of Naples, he left in the citie of Florence his deputies. But he was scarce well gone out of the citie, but that the Florentines wearie of the gouernment of the deputies, came againe vnto their popular gouernment, and so withall renewed their ciuill warres. For redresse whereof D they sent for the duke of Athens, who hauing taken vpon him the soueraigntie, commaunded the citisens to lay downe armes, and for the safetie of his person, tooke vnto him a strong guard, so to keepe vnder the seditious and rebellious persons. But the citisens now supposing themselves so to be spoyled of their libertie, and brought into bondage by the terrour of his guard, turned their old mutuall hatred all vpon the prince, first secretly, and afterwards three conspiracies breaking forth into open force, one after another in the citie: yea at last the citisens altogether burst out into such hatred against the prince, that they besieged the pallace wherein he lay, together with the souldiours which guarded him: neither could that so strait a siege be broken vp, vntill the prince was content himselfe with all his familie to void the city: which for safeguard of his life he was glad to do, not hauing yet a whole yeare gouerned the state. So the citie deliuered of the feare of a master, appointed a forme of an Aristocratie, not much vnlike vnto a Popular estate; deuising new names for their officers and magistrats, still chaunging and rechaunging them with the manner of their state and gouernment, oftentimes no better ordered, than if it had bene committed to mad men, or children without discretion: scarcely twentie yeares together keeping the same forme of state. But as sicke men in the heat of burning feuers, desire to be remoued now hither, and by and by againe thither, or from one bed to another, as if the disease were in the places where they lay, and not in the verie entrals of their bodies: euen so the Florentines

were still turning and tumbling of their estate, vntill they light vpon *Cosmus Medices*, of all Physitians the most skilfull, who cured the citie of these popular diseases, by establishing therein a Monarchie, and building therein three strong citadels, furnished with good & sure garrisons; so leauing vnto his posteritie a well grounded soueraigne state, by himselfe holden by the space of almost fortie yeares: than which nothing could haue bin wished for of almightie God, better or more wholsome for such a most seditious citie. And thus much briefly concerning the Florentine state, which haply might seeme incredible, had they not bene committed to the remembrance of all posteritie, euen by the * writings of the Florentines themselues. The like tragedies we see to haue bene plaid also by the people of Affrike (who in sharpnesse of wit are said to passe the Italians) when they made prooffe of Popular estates: wherof I will set downe but one or two examples amongst many: as namely the inhabitants of Segelmessa, a citie vpon the sea coast in the kingdome of Bugia, reuolting from their king, established among themselues a Popular estate, but shortly after entred into such factions and ciuill seditions, as that not able to endure either the government of their king, or yet the government of themselues, they by common consent laid all their houses and the walles of their citie euen with the ground, that so they might euerie one of them as kings and princes rule and raigne in their owne houses abroad in the countrey. The people also of Togoda, a citie in the frontiers of the kingdome of Fez, wearie of their Aristocratie, forsooke their countrey. For which causes the people of Affrike, not able to endure the Aristocratique or Popular estates, haue almost euerie where established Royall Monarchies.

*Antoninus Pog-
gins Machiavel-
lus.*

*Discord amongst
themselues dan-
gerous vnto the
gouernours of
an Aristocratie.*

*Multitude of
straungers in an
Aristocratie
dangerous.*

Now albeit that Aristocratike estates seeme to many both better and more assured and durable also than the Popular, yet so it is, that the gouernours therof if they bee not of accord among themselues, are still therein in double daunger: the one from the faction among themselues, the other from the insurrection or rebellion of the people, who neuer faile to fall vpon them if they once find them at variance among themselues, as we haue before shewed of the Florentines. The like whereof happened at Vienna, at Genes, and diuers other Commonweales in Germanie also. As it also chanced in the Peloponesian warre, vnto all the cities of Greece which were then gouerned by the nobilitie or richer sort. Which is also yet more daungerous, when the gouernours giue leaue to all straungers to come and dwell in their cities or countries: who by little and little encreasing, and in wealth and credit growing equall with the naturall subiects or citisens, and hauing no part in the government, if they shall chance to be surcharged, or otherwise euill entreated of the gouernours of the state, will vpon the least occasion rise vp against them, and so haply chase euen the naturall lords out of their own countrey: As it chaunced at Sienna, at Genes, at Zurike, and at Cullen; where the straungers encreasing, and seeing themselues surcharged and euill entreated, without hauing any part or interest in the estate, draue out the gouernours and slew most part of them. And namely they of Lindaw, after they had slaine the gouernours, chaunged their Aristocratie into a Democratic or Popular estate: as also did the inhabitants of Strasburg, who in detestation of the Aristocratique government, which they had chaunged into a Popular, after they had driuen out, banished, or slaine their lords and gouernours, solemnly by law provided, That no man should haue the great estate, or any other publike charge in the citie, except hee could first well proue his grandfather to haue bene some verie base fellow, and so himselfe to be descended from the meanest sort of the rascall people. Which yet is no new matter: For we read, that the straungers in the Commonweale of Corfu encreased so fast, that in the end they seised vpon all the nobilitie, whom they cast into prison, and there murdered them;

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- A** chaunging afterwards that Aristocraticall estate into a Popular gouernment. The like hapned vnto the Aristocratique Commonweales of the Samians, the Sibarites, the Trezenians, the Aniphopolits, the Chalcidians, the Thurians, the Caidians, and them of Chio, who were all by strangers changed into popular estates, hauing with their multitude thrust out the naturall Lords and gouernours. Which is the thing most to be feared in the Venetian estate, which we haue before showed to be a meere Aristocratic, and receptacle of all straungers, who haue there so well encreased, that for one Venetian gentleman there are an hundred citisens, as well noble as base descended of straungers; which may well be proued by the number of them which was there taken 20 yeares agoe, or thereabouts: wherein were found nine and fiftie thousand three hundred fortie nine citisens, aboue twentie yeares old; and thiteescore seauen thousand fise hundred fiftie seauen women: two thousand one hundred eightie fise Religious men, 1157 Iewes: which are in all, an hundred thirtie and two thousand three hundred and thirtie persons; whereunto putting a third part more for the number of them which are vnder twentie yeares old, (taking the ordinary age and the liues of men to be 60 yeares, as the law presineth) it amoutteth to the number of about an hundred seauentie six thousand foure hundred and fortie citisens, beside straungers. In which number the nobility or gentlemen were not comprehended, who could not be aboue three or foure thousand, accounting as well them that were absent, as them that were present. And truely I cannot but maruell why the Venetians haue published, yea and that more is haue suffered to be put in print the number that then was taken. The Athenians long agoe committed the like errour, and when the citie was most populous, found that vpon the number taken, there were in the citie twentie thousand citisens, ten thousand straungers, and foure hundred thousand slaues: which open number and account the Romans would not take of their straungers, and so much lesse of their slaues: whom they would not either by their countenance or attire haue knowne from the rest of the citisens: Howbeit that some were of opinion that the slaues ought to be knowne by their apparell; yet their opinion preuayled which thought the same to be daungerous, and a thing to bee feared, lest the slaues entering into the number of themselves, should make their masters their slaues, for so **D** *Seneca* writeth. We read in the hystorie of Cardinall *Bembus*, that the greatest assemblie of the gentlemen of Venice in his time (when as that Commonweale was most populous) was but fiteene hundred; which their fewnesse they by most certein tokens, and their attire, make still to appeare. But that which hath most maintained their seignorie against the commotion of the citisens, is the mutuall amitie and concord of the gouernours and gentlemen among themselves; and the sweetnes of libertie, which is greater in that citie than in any other place of the world: so that beeing drowned in pleasure and delights, and hauing also part in certein honors and meane offices, whereof the gentlemen are not capable, they haue no occasion to stirre for the chaunging of the estate; as had those of whom I haue before spoken, who were **E** not onely debarred of all offices, but by the gouernors of the State surcharged and euill entreated also.

The number of the inhabitants of Venice in the yeare 1555.

Now all these changes of Aristocracies into popular Commonweales haue beene violent and bloodie, as it happeneth almost alwaies: whereas to the contrarie it cometh to passe that Popular estates chaunge into Aristocracies by a more gentle and insensible chaunge. As when entrance is given vnto straungers, who in tract of time by little and little plant themselves, and multiplie, without hauing any part in the estate and gouernment, it falleth out in the end that the naturall citisen employed in publique charges, or in the warres, or by popular diseases wasted, do so decay; the

The change of popular estates into Aristocracies of all others most gentle and quier.

strangers still encreasing: whereby it commeth to passe, that the lesser part of the inhabitants hold the soueraigntie, which wee haue shewed to bee a right Aristocratie. Such were the changes of those Commonweals which we haue before noted, from the people vnto the nobilitie, and such as haue indeed happened vnto the Venetians, the Luques, them of Rhaguse, & of Genes, which being in auntient time Popular estates, haue by little and little as it were without feeling, changed into Aristocracies: ioyning hereunto also, that the poorer sort of the citisens hauing much a do to liue, & so wholly intentiue vnto their domesticall and priuat affaires, shun all publike charges without profit: and so by succession and prescription of time exclude themselves with their families from entermeddling with the state. And this maner of change in the estate, is of all others most gentle and easie, and least subiect vnto tumults and sturres: neither can otherwise be letted, but that it wil in time chaunge, but by keeping of strangers from entering into the citie: or by sending of them out into colonies, or else together with the rest admitting them vnto the honors and preferments in the estate: and so much the more if the people be giuen to warre. For otherwise it is to be feared, that the nobilitie not daring to put armes into the subiects hands, but being constrained to go to warres themselves, should be all at once ouerthrowne, and so the people inuade to soueraigntie: as it happened to the seigneurie of Tarentum, which in one battell against the Iapiges lost almost all the nobilitie: after which the people seeing themselves the stronger, changed the Aristocracy into a Popular estate, in the time of *Themistocles*. And for this cause the nobilitie of the Argiues, being almost all slaine by *Cleomenes* king of Lacedemonia, they that remained yet aliue, fearing the rebellion of the people, of themselves receiued the comminalltie into the fellowship of the gouernment, and so of their owne accord seemed willingly to grant that which the people otherwise haue taken from them by force, & whether they would or no: by which means their Aristocratie most quietly and sweetly chaunged into a Popular estate: So one of the things that gaue aduantage vnto the people of Rome ouer the nobilitie, was the victorie of the Vientes, who in one battell slew 300 of the Fabians, all gentlemen of one house, when as not long after twelue families of the Potitij, who ascribed the beginning of their houses vnto the gods, were in one and the same yere quite extinguished, & brought to naught, as *Liuius* writeth. And therefore the Venetians, better citisens than warriors, if they bee to make warre (which they neuer doe but vpon great necessitie) vse commonly to chuse their generall one of their nobilitie, their souldiors for the most part beeing strangers and mercenarie men. But this inconuenience for the changing of the estate, for the losse of the nobilitie, cannot happen in a Monarchie, if all the princes of the blood bee not slaine together with the rest of the nobilitie: as the maner of the Turks is to doe in all places where they haue any purpose absolutely to command, where they spare not so much as a gentleman: whereof haue ensued the destruction of many Commonweals in the East, and great encreasing of the Turkish empire. But this change, or rather vnion or encrease of one estate by another, proceedeth from externall force. So in France also, when as almost all the nobilitie of France was slaine in the expedition of Fontenay, neere vnto Auxerre, by the ciuill warre betwixt *Lothaire* the eldest sonne of *Lewes* the Gentle, on the one part, and *Lewes* and *Charles* the Bald on the other: yet for all that all their three Monarchies stood still firme: and namely when the countrey of Champagne had lost so much of the nobilitie in those wars, as that for the restoring therof, the gentlewomen had especial priuilege to ennoble their husbands with whom they should marrie, and yet for all that the Monarchy in the state therof felt no change at all. And thus are the great and notable changes commonly made in Aristocratike and Popular Commonweales.

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- A** But nothing is so much in an Aristocratie to be feared, as least some gracious man of the nobilitie, or of the people, desirous of rule & authoritie, should stirre vp the people against the nobilitie, and become leader of them himselfe. For therof ensueth the most certaine destruction of an Aristocratie, together with the nobilitie. In this sort *Thrasyllus* first, and afterward *Thrasylbulus* at Athens, *Marius* and *Cesar* at Rome, *Fra. Valori*, and *P. Sodorin* at Florence, armed the people against the nobilitie: which is also so much the more to be feared, if the great honours of the estate bee bestowed vpon most filthy and wicked men, and other vertuous men and such as haue well deserued of the Commonweale, kept backe and excluded. Which thing seemeth not grievous onely to euerie good man; and not to be borne withall, but ministreth occasion also
- B** vnto the seditious and popular, to enflame the people against the nobilitie. Neither for any other cause did the people of the *Orites* by force wrest the power and gouernment from the nobilitie, than for that they had preferred vnto the chiefe honours one *Heracleotes*, a man for his euill life infamous. Which thing also was the destruction of *Nero* and *Heliogabalus*, for that they had bestowed the greatest honours and preferments of the empire, vpon most wicked and corrupt men. Which of all other things is most to be feared and shunned in an Aristocratie Aristocratically gouerned: that is to say, where the people is kept from all honours and places of commaund: which although it be of it selfe an hard thing patiently to endure, yet were it the better to be borne, if the gouernment were committed to good men: but when it is giuen to wicked and vnworthy men, euerie audacious fellow vpon occasion offered, will easily draw the people from the nobilitie, and so much the rather, by how much the nobilitie shall be at lesse vnitie among themselues. Which plague, as it is in all estates and gouernments, so is it especially in an Aristocratie to be eschewed and fled. Now discord oft times ariseth euen of most small matters, which as sparkes raise the great fiers of ciuill warres, which at length take hold euen of the whole bodie of the estate of a citie or Commonweale. As it happened at Florence, for the refusall made by a gentleman of the noble house of *Bondelmont*, to marrie a gentlewoman to whome hee had before giuen his promise, gaue occasion to the raising of a faction amongst the nobilitie, who so wasted and deuoured one another, as that the people to end the quarrel, easily draue
- D** out all the rest, and commaunded the state of the citie. And for like occasion arose great ciuill warres amongst the *Ardeates*, for an inheretrix, whome her mother would haue married vnto a gentleman, and her guardions to a base obscure man: which diuided the people from the nobilitie, in such sort, that the nobilitie vanquished and put to flight by the people, tooke their refuge vnto the Romans, and the people vnto the *Volians*, who were afterwards vanquished by the Romans. So also the citie & Commonweale of *Delphos*, for the same occasion, was chaunged from an Aristocratie vnto a Popular estate. The state of *Mitelin* was also chaunged from an Aristocratie into a Popular estate, vpon a suit betwixt the nobilitie and the people, Which of them should haue the tuition of two orphans. And the state of the Commonweale of the
- E** *Hellians*, for a suit in matter of inheritance betwixt two priuat men. And the sacred warre which chaunged not, but euen vterly ruinated the estate of the *Phocenses*, was grounded vpon the marriage of an inheretrix, whome two of their great lords stroue to haue. And that more is, the *Aetolians* and *Arcadians*, for a long time sore weakened one another with mutuall warres, and all but for a boares head: as they of *Carthage* and of *Bizaque* did also for a small frigot. So betwixt the Scots and the *Picts*, was raised a most cruell warre, and all but for certaine dogges, which the Scots had taken from the *Picts*, and neuer could be againe reconciled, howbeit that they had for six hundred yeares before liued in good peace and amitie together. And the war betwixt the duke

Ambition and the vnworthie bestowing of the great preferments of the commonweale, thinges most dangerous to an Aristocratie

Discord among the nobilitie a thing most dangerous to the state

Small matters oftentimes the cause of great changes in commonwealths.

of Burgundy and the Swissers, which could no otherwise be ended, but by the death of the duke himself, was all but for a wagon load of sheepe skins which he had taken from the Swissers.

Great men hardly
to be called in
question to giue
an account of
their doings,
without the daun-
ger of the estate.

Sometime also the changes and ruines of Commonweales come, when the great ones are to be brought in question, to cause them to giue an account of their actions, whether it be for right or wrong: wherein euen they which are guiltlesse (and especially in Popular estates) not without cause alwaies feare the calumnies and doubtfull issues of iudgements, which most commonly endaunger the liues, the goods, and honour of such as are accused. And to leaue forren examples, wee haue store enow of our owne, and that of such as of late haue set on fire all the kingdome with ciuill wars when it was but spoken of, for calling them to account for two and fortie millions. And no maruell if they so feared to be brought in question for embeseling of the common treasure and reuenues, when as *Pericles*, a man of greatest integritie, and which had most magnificently spent euen his owne wealth for the Athenian Commonweale, rather than he would hazard the account that they demaunded of him for the treasure of Athens, which he had mannaged, and so generally of his actions, raised the Peloponnesian warre, which neuer after tooke end vntill it had ruinated diuers Commonweals, and wholly chaunged the estate of all the cities of Greece. Who alwaies hauing bene a good husband, and had the charge of the common treasure of that Commonweale, by the space of almost fiftie yeares, was therefore yet found neuer the richer, as *Thucydides*, a most true historiographer, and *Pericles* his most mortall enemy reporteth of him: who caused him to be banished with the banishment of the Ostracisme. And euen for the selfe same cause the Rhodians and they of Choos had their estates changed from Aristocracies into Popular estates. And albeit that *Cesar* was of himselfe most ambitious and desirous of soveraigntie: yet was he not so much desirous to beare rule, as affraid to be called to account by priuat men, for such things as he had done, as his enemies had openly boasted that he should, so soone as hee was discharged of his charge: not the least cause that moued him to cease vpon the estate. For what assurance could he haue of himselfe, seeing before the two *Scipioes* (*Africanus* the honor of his time, and *Scipio Asiaticus*) *Rotulus* and *Cicero*, by the iudgement of the people condemned? Now if good men were to feare, what should the wicked do? who besides that they are in hope the better to escape, the Commonweale beeing all on a broile, are also resolved, that the common treasures can neuer more easily be robbed, or good men spoiled and slaine, than in the time of ciuill warres: euer taking it for an aduantage to fish in the troubled water. And although it may fortune such wicked men also to perish (as oftentimes it happeneth them which haue bene the authors of ciuill warres, themselves to die a most miserable death) yet haue they still in their mouths that desperat saying of *Catiline*, That the fire (forsooth) which had taken hold of his house, which he could not with water quench, hee would yet quench with the vtter ruine of the same. And truly much he missed not, but that hee had vtterly ouerthrowne the Roman Commonweale, or stept into the soveraigntie, had not *Cicero* the watchful Consul, and *Ca. Antonius* his companion (although it were with much ado) slaine him so desperat a citisen, with all his fellows. Neither ought *Cicero* (by his good leaue bee it said) to haue driuen *Catiline* out of the citie, but to haue oppressed him euen there, the conspiracie once detected. For it is not to be hoped, but that he which seeth himself banished from his house, & from his countie, if he haue power, wil forthwith put himself in arms, as he did. And had he gained the battell against *Ca. Antonius*, hee had put the whole estate in great danger, being one of the most noble gentlemen, and best allied of all them that were in Rome. Certeine it is that by his departure out of the citie, a great and

How dangerous
a matter it is in e-
uerie common-
weale to bannish
a great man.

A and dangerous sinke of the Commonweale was so well clenfed; yet had it beene better for him to haue beene there oppressed, than armed against his owne countrie. But of such great and dangerous enemies, the wiser sort aduifeth vs, to make them our verie good friends, or else vtterly to destroy them, rather than to driue them out of the citie, except we should for honour banish them: as they did in the cities of Athens, Argos, and Ephesus, where the great Lordes mightie in wealth, fauour, or vertue, were for a certeine time (which for all that neuer exceeded ten yeates) constrained to absent themselves, without any losse of goods or reputation; which was an honourable kind of banishment. Of whom so banished, not any one of them is reported to haue therefore made warre vpon his countrie. But to banish a great Lord with losse of his goods and contumely; is not to quench but to kindle the fire of warre against the estate: For that oft times such a banished man by the helpe of his friends aspireth vnto the soueraigntie; as did *Dion* banished out of Syracuse by *Dionysus* the yonger, against whom for all that he yet tooke not vp armes vntill he was by him proscribed. And *Martius Coriolanus*, who cast into exile, brought the Romans to such extremitie, as that had he not suffered himselfe to haue beene ouercome with the prayets and teares of his mother, and the other women whom the Romans had sent vnto him, the Roman state had there taken end. In like manner the banished men of the house of *Medices*, and the nobilitie of Zurich in the yeare 1336, thrust out of their cities, by the helpe and power of their friends and allies besieged their owne natie countries, and for a long time wearied the citisens their countrymen with a most doubtfull and daungerous warre. But yet here some man may say, That it is more safetie to keepe a wicked and a daungerous citisen without the wals, than to bee troubled with such a plague in the verie entrailes of the Commonweale. Whereto I yeeld: but yet how much greater a follie is it to let him whom thou oughtest to kill, to escape out of the citie, who once got out, is both willing and able to stirre vp, and maintaine warre? *Artaxerxes* king of Persia had cast in prison *Cyrus* the yonger, guiltie of high treason, and had commanded him in princely manner to be bound with chaines of gold; and afterwards overcome with his mothers requests enlarged him: but he had no sooner got his libertie, but that he made most greivous warre vpon the king, and was like enough by his brothers death to haue obtained the kingdome, or else haue vndone his countrie; had he not by the kings armie beene circumuented and slaine. I said we must kill such people, or make them our good friends: as did *Augustus*, hauing discovered the conspiracie of *Cinna* against him, and hauing him in his power attainted and conuined by his owne letters, yet neuerthelesse pardoned him; and not so content, tooke him by the hand, and swore a bond of mutuall friendship with him, and afterwards bestowed the greatest honours and preferments of the estate vpon him, at the time that *Cinna* expected nothing but the sentence of condemnation, and so present execution; vsing these words of grace and fauour vnto him: *Vitam tibi Cinna iterum do, prius hosti, nunc insidiatori ac parricide; Ex bodierno die amicitia inter nos incipiat, contendamus utrum ego meliore fide vitam tibi dederim, an tu debeas*, Cinna (said he) thy life I giue thee againe, being before mine enemy, and now a traitour and a murderer; But from this day, let vs begin to be friends, and from henceforth let vs striue, whether I with greater trust haue giuen thee thy life, or thou with greater faithfulness doe ow it. After which time he neuer had a more faithfull friend; being also afterwards by him appointed heire of all his goods. *Augustus* had before put to death an infinite number of such as had sworne and conspired his death: but now had a purpose in *Cinna* to proue if by gentleness and mercie he could gaine the hearts of men, wherein he was not deceived; for from that time there was neuer any found which durst attempt any thing against

This was the
Ostracisme ban-
ishment.

Great men ene-
mies vnto the
estate, are either
to be slaine, or by
great kindnes
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faithfull friends.

against him. So the Venetians also hauing taken prisoner *Gonzaga* the duke of Mantua, of all others their most mortall enemie, (who had ioyned all his forces and power with king *Lewes* of Fraunce for the overthrow of the Venetian state) did not onely set him at libertie, but made him Generall also of their forces; by which so honorable a kindnesse he bound, for euer after continued their most fast and loiall friend. And this is it for which *Pontius* the old capitaine of the Samnites said, That the great armie of the Romans surpris'd in the straites of the Appenine mountaines was either franke and freely to bee set at libertie, or else all to be put to the sword: for that so it should come to passe, that either the power of the Romans should by so great a slaughter be greatly weakned, or else hauing receiued from the Samnites so great a benefit, as the life and libertie of so many men, they should for euer after keepe good league and friendship with them. F

Small Commonweales more subiect vnto change than great.

But these conuersions and chaunges of Commonweales do more often happen in little and small cities or estates, than in great kingdomes full of great prouinces, and people. For that a small Commonweale is soone diuided into two parts or factions: Whereas a great Commonweale is much more hardly diuided; for that betwixt the great Lords and the meanest subiects, betwixt the rich and the poore, betwixt the good and the bad, there are a great number of the middle sort which bind the one with the other, by meanes that they participate both with the one and the other, as hauing some accord and agreement with both the extreames. And that is it for which we see the little Commonweales of Italie, & the auntient Commonweales of Greece, H which had but one, two, or three townes or cities belonging to them, in one age to haue suffered moe alterations and chaunges than are in many ages reported to haue beene in this kingdome of Fraunce, or in the kingdome of Spayne. For it is not to be doubted but that the extreames are alwaies contrarie one of them to the other, and so at discord and variance betwixt themselues, if there be not some meanes which may binde and ioine the one of them with the other; which we see by the eye, not onely betwixt the nobilitie and base common people, betwixt the rich and the poore, betwixt the good and the bad, but euen in the same citie also, where as but the diuersitie of places seperate but by some riuer, or wast vacant peece of ground without building vpon it, doth oft times set the citisens at odds, and giue occasion to the chaunging I of the estate. So the citie of Fez was neuer at quiet, neither could the slaughters & murders euer be appeased or staied, vntill that *Ioseph* king of Marocco and of Fez, of two townes standing some what distant one of them from the other by continue building made them both one, and that now the greatest citie of Fez, whereby he gained the praise and commendation of a most wise & discret prince; for that he so not onely ioyned houses to houses, and wals to wals, but bound also the mindes of the citisens and inhabitants of both places (before burning with an incredible hatred one of them against an other, and alwaies diuided in warres) now in perpetuall loue and friendship together. Which hapned also vnto the Clazomenians, where one part of the citie standing in the maine, and the other part in an Island, there was alwaies discord and warre betwixt them of the Isle and the other citisens. And so at Athens they which K dwelt by the hauens side commonly called Piræus, were at continuall discord and variance with them of the vpper Towne which they called Astu or the Citie, vntill that *Pericles* with long walles ioyned the Hauen vnto the Citie. For which cause also such tumults and quarrels fell betwixt the citisens of Venice, and the mariners and other the seafaring men, as had brought the citie into extreame perill and daunger had not *Peter Lauredan* with his great authoritie and wisdom appeased the same.

But most often it hapneth the chaunges of Commonweales to follow after ciuill discord,

Small occasions serue to raise great dissention amongst citisens, and so the change of the estate.

- A** discord, especially if some neighbour prince shall vpon the suddain oppresse a citie or State weakned with the slaughter of the citifens or subiects, or else the citifens or subiects themselves being by the eares together: As the Englishmen haue often times vanquished and ouerrunne the French being at variance among themselves: And the king of Fez easely tooke the citie of *Tefza*, the citifens being almost all consumed and spent with ciuill warre, And in the memorie of our fathers *Philip* the second duke of Bourgondie ioyned vnto the boundes of his dukedome Dinan and Bouines, two cities in the countrie of Liege (parted in sunder but with a riuer) after that they had with long warres weakned themselves, which two cities for all that he could not before by any force subdue; howbeit that in taking of them he did but marrie the one of them vnto the other, as saith *Philip Commynes*. So also whilest the kings of Marocco were in armes together for the soueraigntie, the Gouvernour of Thunes and of Tefsin dismembred those two prouinces to make himselfe a kingdome of. And by the same meanes *Lachares* seeing the Athenians in combustion, in the time of *Demetrius* the besieger, stept into the Seignorie. And that more is, we read that foure thousand five hundred slaues and banished men invaded the Capitoll, and missed but a little to haue made themselves lords of Rome, whilest the Nobilitie and Common people in the meane time were together by the eares in an uproar in the middest of the citie, who thereupon fell to agreement among themselves; not vnlike vnto two dogges, who readie to pull one an others throat out, seeing a wolfe, fall both vpon him. Wherefore such ciuill discord is most dangerous vnto cities or estates, especialiy if there be no societie or allyance betwixt the State so troubled, and the neighbour Princes: for that the enemy so at hand, may oppresse the state (the citifens or subiects so at variance among themselves) before that any helpe can come. Whereat we are not to maruell, for they to whom neither the huge height of steepe mountaines, neither the vnmeasurable depth of the botomlesse sea, nor the most solitarie desarts, nor the greatest and strongest fortifications, nor the innumerable multitude of enemies can serue for the staying of their ambitious and auaritious courses and desires; how should they content themselves with their owne, without encroaching vpon their neighbours, whose frontiers touch theirs, and that fit occasion presenteth it selfe for them so to do?
- D** which is there the more to be feared where the Commonweale is but little: as is that of Rhaguse, of Genua, and of Liuke, which haue but one Towne, and the territorie verie strait; so that he which shall gaine the towne, shall withall become master of the Estate also: which so chaunceth not in great and spacious Commonweale, wherein many castles, cities, countries, and prouinces are in mutuall helpe together combyned; so that one citie thereof being taken, or a countrie or prouince thereof spoyled, yet followeth not the ruine of the Estate, one of them still succoring an other, as many members in one bodie, which at need heloe one an other.

Commonweales most often changed or overthrowne by foreign princes, taking the advantage of the ciuill discord of the subiects amongst themselves.

- E** Yet for all that a Monarchie hath this aduantage proper vnto it selfe, about the Aristocratique and Popular estates, That in these commonly there is but one towne or citie wherein the Seigneurie lyeth, which is as an house or place of retrait for them which haue the manning of those estates to retire vnto; which once taken by the enemy, the estate is withall vndone: whereas a Monarke chaungeth himselfe from place to place as occasion requirerh: neither doth the taking of him by the enemy bring with it the losse of the Estate. As when the citie of Capua was taken, their estate was also overthrowne by the Romans, neither was there so much as one towne or fortresse which made resistance against them; for that the Senat and the people which had the soueraigntie were all together taken prisoners. The citie of Sienna also being taken by the duke of Florence, all the other townes and fortresses of that Seigneurie

A Monarchie not so easily changed or overthrowne, as is an Aristocratique or Popular Commonweale.

The resolution
of *Francis* the
French king, be-
ing prisoner to
the Emperour
Charles the fift.

at the same time yeelded themselues vnto him also. But the king taken prisoner, is most commonly for his ransome set at libertie; wherewith if the enimie hold not him selfe content, the Estates may proceed to a new election, or take the next of blood if they haue other princes: yea sometime the captiue king himselfe had rather to yeeld vp his estate, or else to die a prisoner, than to grieue his subiects with his too heauie a ransome. As indeed that which most troubled the Emperour *Charles* the fift was the resolution of king *Francis* then his prisoner, who gaue him to vnderstand that he was vpon the point to resigne his kingdome vnto his eldest sonne, if he would not accept of the conditions by him offered: For why, the realme and all the Estate stood yet whole without any chaunge taking, or any alteration suffering. And albeit that Spayne, Italie, England, all the Low Countries, the Pope, the Venetians, and all the Potentates of Italie had combyned themselues against the house of Fraunce, ouerthrowne our legions at Paue, and caried away the king with the flower of the nobilitie into Spayne; yet was there not any which durst enter into Fraunce to conquer it, knowing the lawes and nature of that Monarchie. For as a building grounded vpon deepe foundations, & built with durable matter, well vnited and ioyned in euery part, feareth neither winde nor tempest, but easily resisteth all force and violence; euen so a Commonweale grounded vpon good lawes, well vnited and ioyned in all the members thereof, asfly suffereth not alteration: as also to the contrarie we see some states and Commonweales so euill built and set together, as that they ow their fall and ruine vnto the first wind that bloweth, or tempest that ariseth.

The insensible
change of es-
tates best and
most tollerable.

And yet is there no kingdome which shall not in continuance of time be chaunged, and at length also be ouerthrowne. But they are in better case which least feele such their chaunges by little and little made, whether it be from euill to good, or from good to better; as we haue shewed by the example of the Venetian Commonweale: which at the beginning was a pure Monarchie, which afterward was sweetly chaunged into a Popular estate, and now by little and little is chaunged into an Aristocratie, and that in such quiet sort, as that it was not well by any man perceiued that the estate was at all chaunged. An other example we haue also of the Germaine Empire, which founded by *Charlemaine* and discending to his posteritie, so long continued a true Monarchie vnder one soueraigne princes gouernment, vntill that the line of *Charlemaine* sayling, the Emperours begun to be created by election; at which time it was right easie for the princes which had the choice by little and little to clip the Eagles wings, and to prescribe lawes and conditions vnto the Emperour to rule by; and yet right happie was he which could thereunto aspire vpon any condition whatsoever: whereby the state of the Monarchie began by little and little to decay, and the state of an Aristocratie to encrease in the Princes and Estates of the Empire, in such sort as that at this present the Emperours haue nothing more but as it were the bare name and title of an Emperour, the soueraigntie resting in the Estates of the Empire it selfe. So that had not eleuen most noble Princes of the house of Austria for their worthy deeds right famous, as it were in a successiue right (one of them whilest he himselfe yet liueth, still procuring an other of the same house to be designed Emperour) in some sort maintained the maiestie of the Germaine Empire, the Emperours for their estate had now long ago beene like vnto the Dukes of Venice, and happely inferiour too. The like change hapned vnto the Polonians, the lyne of *Jagellon* failing: as also the Danes, after that *Chrstierne* their king was by them his subiects imprisoned, and his brother to be chosen king in his place, sworne to such conditions as the nobilitie would: and after that *Frederike* which now raigneth hath beene constrained to confirme the same, (as I haue before noted) whereby it manifestly appeareth, that the Nobilitie there hold

The insensible
chaunging of
the Venetian
estate, and of
the state of the
German Em-
pire.

A hold as it were the soueraigntie, and that by little and little that kingdome will change into an Aristocratie if *Frederike* should die without childten.

And albeit that the estates of Hungarie, Bohemia, Polonia, and Denmarke, haue alwayes pretended the right of election of their kings, although they haue children, (which prerogatiue they stil maintaine) yet commonly the kings their parents appointed their children vnto the succession of their kingdomes, who so chosen in their fathers places, better maintaine the rights of soueraigntie than do straungers (who haue the same oft times cut short, and so their soueraigne power in them restrained) so that the kingdomes so descending, as it were in succession from the great grandfathers vnto their nephewes, the soueraigne rights by little and little without violence returne again

Kingdomes going by election and so indeede but Aristocracies, long continued in one familie, easily change at length into Monarchies as by succession descending.

B from the nobilitie vnto the kings themselues: which is both an easie chaunge, & most wholsome for the Commonweale. For so *Cazimir* the Great, king of Polonia, worthily defended the soueraigne rights by him receiued from his great grandfather: but hee dead without issue, the Polonians indeed called *Lewes* king of Hungarie (and *Cazimir* his nephew) vnto the kingdome of Polonia, but with the soueraigntie therein much diminished; he for the gaining of the kingdome yeelding to whatsoeuer the estates desired. But *Lewes* dead also without heires male, *Jagello* duke of Lithuania marrying one of the daughters and heires of *Lewes*, and so with her obtaining the kingdome of Polonia, yet more impaired the soueraigne rights than they had before bene: the prin-

C ces of whole posteritie neuerthelesse as it were in successiue right, for the space of aboue two hundred yeares, tooke vpon them the gouernment of the kingdome, and notably maintained the rights of their soueraigntie, vntill the death of *Sigismundus Augustus*, last heire male of that house: vnto whome by right of election succeeded *Henrie* of Fraunce, *Charles* the ninth the French kings brother: but with oathes and conditions bound vnto the estates, so much derogating from the rights of a soueraigne Monarch, as that indeed he might haue seemed rather a prince than a king. And to say yet more, I being sent to Mets, to asist them which were thither sent with the duke, to receiue the ambassadours of Polonia, and to parle with them, it was told me by *Salomon Sboroschi* one of the ambassadours, That the estates of Polonia had yet cut much shorter

D the power of the new elected king, had it not bene in the regard they had of the honor of the house of Fraunce. Thus we see Monarchies peaceably by little and little to change into Aristocracies, if so it be that the Monarchie be not by auntient lawes and immutable customes, maintained in the maiestie thereof. As we see in the creation of the pope, where the Consistorie (or Colledge of Cardinals) derogar nothing from the soueraigne maiestie that he hath in all the demaine of the church, and the fees depending thereon: no more than do the order of the knights of Malta in any thing diminish the power of the Grand maister, who hath the power of life and death, and to dispose of the reuenues, estates, and offices of the countrey, yeelding fealtie and homage vnto the king of Spaine for the isle of Malta, which *Charles* the fift the emperour vpon

E this condition gaue them. And albeit that the colledge of cardinals after the death of pope *Iulius* the second, determined in the conclaue, to moderat the popes power: yet shortly after they flew from that they had before decreed, in such sort that *Leo* the tenth, then by them chosen, tooke vpon him more power than had any pope of long time before him.

But that chaunge is of others most daungerous to a Monarchie, when as the king dying without issue, there is some one who in wealth and power exceedeth the rest; & so much the more, if he be also ambitious and desirous of rule: For no doubt, but that hauing the power in his hand, hee will, if hee can, take the soueraigntie from the other weake princes. For so *Hugh Capet* the right line of *Charlemaigne* ended, being Prouost

The most dangerous chaunge of a Monarchie.

These noble families are nowe also al or most of them extinguished and come to nought.

of the citie of Paris, and a man of great wealth, and no lesse favoured of the people, excluded from the kingdome *Charles* duke of Loraine, who with his sonne *Otho* were the onely men left of all the posteritie of *Charlemaigne*. Which is also to bee feared of the great Othoman princes, who although they haue their families of the *Machal-oglies*, of the *Ebranes*, and the *Turacans*, of the princes house and blood, to succeed in the Turkish empire: yet for all that if the Othoman familie should altogether perish, it is to be thought, that some one of the Bassacs or other great men, in greatest fauour with the Lanzaries, and the other souldiours of the court will carrie away the estate and so- ueraignie from the other princes of the aforesaid families, being but weake, and far off from the Grand Signior, which might so raise the greatest ciuill warres in the East, for the great opinion which the people hath of long conceiued of the valour and maiesty of the Othoman familie. A notable example of such change of state wee haue in the chaunge of the Lacedemonian kingdome: where *Cleomenes* the king vanquished and put to flight by *Antigonus*, the kingdome was chaunged into a Popular estate, which so continued for three yeares: during which time the people made choyce of five Prouosts, or chiefe magistrats, whome they called Ephori, chosen out of the people themselues: but newes being brought of the death of *Cleomenes*, slaine in Aegypt, two of the five Ephori conspired against the other three their companions and fellowes in office: and so as they were doing sacrifice, caused them to be slaine: which done, they proceed to the election of *Agessipolis* for their king, a prince of the royall blood. But whereas before *Cleomenes* they were wont to haue two kings: one *Lycurgus* a man gracious with the people, but otherwise none of the blood royall, by corruption and briberie caused himselfe also by the people to be chosen king, *Chilon*, a noble gentleman, discended from *Hercules*, being for his pouerty and want of ability excluded, who not able to endure so great an indignity offered vnto his house and family, procured all the magistrats to be slaine: *Lycurgus* himselfe onely escaping, who after great effusion of blood, held the soueraignty himselfe alone, hauing before almost quite destroyed the royall race of the Heraclides posterity of *Hercules*. And thus much concerning the chaunge and ruine of Commonweales, which whether they may by any meanes be forseene and preuented, let vs now also see.

CHAP. II.

¶ Whether there be any meane to know the chaunges and ruines, which are to chaunce vnto Commonweales.



Seeing that there is nothing in this world which commeth to passe by chaunce or fortune, as all diuines and the wiser sort of the Philosophers haue with one common consent resolved: Wee will herein the first place set downe this maxime for a ground or foundation, That the chaunges and ruines of Commonweales, are humane, or naturall, or diuine; that is to say, That they come to passe either by the onely counsell and iudgement of God, without any other meane causes: or by ordinarie and naturall meanes of causes and effects, by almightie God bound in such fit order and consequence, as that those things which are first haue coherence with the last; and those which are in the middest with them both: and all with all combined and bound together with an indissoluble knot and tying: which *Plato* according to the opinion of *Homer* hath called the Golden Chaine, that is to say, *σείραυν χρυσάν*, or by the will of man, which the diuines confesse to be free, at the least concerning ciuill actions: howbeit that indeed it is no will at all, which in any sort whatsoever is enforced and bound.

Which

- A** Which will of man is so mutable and vncertaine, as that it should be impossible to giue thereby any iudgement, to know the changes and ruines which are to fall vpon Commonweales. As for the councell of God, it is inscrutable, but that he sometime by secret inspiration declareth his will, as he hath done vnto his Prophets, causing them many worlds of yeres before to see the falles of many the greatest empires and Monarchies, which posteritie hath by experience found to be true. But this diuine power of the almightie most seldome times sheweth it selfe immediatly without the comming betwixt of meane causes; neither doth he it without greatest force and most sudden violence: as when he in one and the selfe same moment with wonderfull fire, and reuenging flames, destroyed the five cities with Sodome and Gomorrha: and so chaunged also the place, then full of most sweet waters and aboundance of fish, with a most stinking & lothsome tast, as that it yet is vnto all kind of fish pestilent & deadly: and as for the ground it selfe, before of wonderful fertility, he so couered it with ashes and stinking sulphur, as that he seemeth in that countrey to haue left no place for wholsome plants, or any kind of graine to grow in. So also he ouerwhelmed Bura and Helice, two cities of Greece, with such a deluge of water, and that so suddenly, that euen they also which were about to haue fled out of the cities into the ships, being by the wonderfull rising of the watets, vnable to come to the hauens, were so all drowed. By the like wrath of God a great earthquake in a moment swallowed vp three and twentie cities in Italie, where afterward the Fennes called Pontina burst out. As in like manner twelue cities of Asia are reported to haue bene all at once vpon the sudden with an earthquake deuoured.

Mans will still mutable, and God his iudgments inscrutable, afford no meane for man by the foreseee the changes and ruines of Commonweales.

God his immediate iudgments most sudden and most dreadfull.

- Wherefore seeing that mans wil is still diuers and mutable, & God his iudgements most secret and inscrutable: there remaineth onely to know, whether that by naturall causes (which not altogether obscure, but by a certaine constant order of causes and effects gouerned, kept their course) a man may iudge of the issue and successe of Commonweales. Yet by these naturall causes hauing in them this power (which are many and diuers) we meane not ciuill causes, whereunto the change and ruine of cities and Commonweales must needs immediatly follow: as when good desertts goe vnrewarded, and great offences vnregarded, who knoweth not but that such a state or Commonweale must needs in short time perish and come to naught? For of all causes none is more certaine, none more weightie, and in brieft none neerer vnto the change or ruine of a citie or Commonweale, than these. But the causes which we here seeke after, are the celestial and more remote causes, yet proceeding from a certaine naturall course and force: howbeit that it be good also to behold and foresee all maner of causes whatsoever. For as a painter doth one way consider of a mans bodie, and the Physitian another: and the naturall Philosopher one way considereth of the mind of man, & the diuine another: so also the Politician doth one way, the Astrologer another, and the diuine a third way, iudge of the change & ruine of Commonweales. The Politician in the ruine of a citie or Commonweale, blameth the iniuries and wrongs done by the prince vnto his subjects, the corruptnesse of the magistrats, with the iniquitie of the laws: The Astrologer considereth and beholdeth the force and power of the heauenly starres and planets, and thereof thinketh diuers motions to arise in mens minds, for the change and innouation of estates and Commonweales: But the Diuine constantly affirmeth all plagues, wars, dearth, destructions of cities and nations, to proceed from the contempt * of God and of his religion, and God therefore to be angrie, and to stupifie the wisdom euen of the most wisest magistrats, and to arme euen his starres against princes. And euerie one of these haue their causes, by the helpe and concurrence whereof wise men may guesse the change or ruine of a citie or Commonweale. In which point we

By what naturall causes the changes and ruines of Commonweales are to be foreseen

Psal. 109.
Leuit. 27.
Job. 12.

Astrological predictions, not to derogat from the maiestie and power of God.

Nothing done by the necessitie of nature, it selfe being still subiect to the power of God:

* *Esa. 19.*

All worldly things still subiect to mutabilitie and change.

see many to erre and be deceiued, which thinke, that to looke into the starres, and to search after their secret influencies and vertues, is in some sort to diminish the maiestie and power of almightie God: whereas to the contrarie it is thereby made much more glorious and beautifull, to do so great things by his creatures, as if he did then immediately by his owne mightie hand, without any other meane at all.

Now what man is there of sound iudgement, which feeleth not the wonderfull force and effect of the celestiaall bodies in nature in generall? Which yet for all that no necessitie of nature worketh, for that it may by almighty God be stil kept back and restrained, being himselfe free from the lawes of nature, which hee himselfe hath commaunded; not as by a decree of a Senat, or of a people, but euen of himselfe: who being of all others the greatest, can do nothing but that which is right and iust, for that he is himselfe the best, and hath a *perpetuall care of all people and nations, but yet thereof himselfe secure, for that he is himselfe the greatest. But as all things which had beginning haue also a loofe and fraile dissoluable nature (as by most certaine and vndoubtfull demonstration is to be proued) it must thereof needs follow also, not onely cities and Commonweals, but euen also other things, which from their first beginning haue innumerable worlds of yeares flourished, must at length in tract of time fall also and take end. And albeit that *Plato* the prince of Phylsophers, hauing not as yet the knowledge of the celestiaall motions, and so much lesse of their effects (which as then was couered in most thicke darkenesse and cloud) when as he with a notable inuention had conceited such a forme of a Commonweale, as seemed vnto many to bee euerlasting, if it erred not from the lawes and orders by him set downe; yet for all that he said, That it should in time perish: as he which most manifestly saw the vanitie of all things, which as they had a beginning, so were they also to take ending; nothing being still firme and stable, besides him which was the father of all things. Which being so, there be no so notable orders, no so religious lawes, no such wisdome or valour of man, which can still preserue estates or Commonweales from ruine and most certaine destruction. By which reasons, *Secundus* (a Philosopher of the Stoike sect) greatly comforted *Pompey*, discouraged and almost desperat after the Pharsalian ouerthrow. Neither yet therefore do they which thinke the course of naturall causes to concerne the changes and ruines of cities and Commonweals, thereby bind the free will of man, and much lesse almightie God himselfe vnto a fatall necessitie: no not if we should deeme all things to be done by a continuat and interlaced course of forerunning naturall causes; seeing that euen nature it selfe is by the power of God kept in & restrained. Wherefore we oftentimes see both plants, and other liuing creatures, which by nature haue a certaine period of their liues, by some externall force to hasten or preuent the tearmes by nature prefixed, and so sooner to die than by nature they should. And as for mankind, we haue it oftentimes in holy writ recorded, That they which lead an vpright & vertuous life, shall liue long: whereas the wicked should shorten their dayes, and bring themselves vnto a most speedie confusion and end. Whereby it appeareth certaine prefixed bounds of euerie mans life, to be by God appointed, which by sinne may be cut shorter, and by vertue extended farther. So kingdomes also haue their beginnings, their encreasings, their flourishing estates, their changings, and ruines: yet when these chaunges shall be, or ruines, or destructions betide them, we see it by no learning to be perceiued or vnderstood. For as for that which *Plato* hath written, Kingdomes then to fall and take end, when as the sweet consent and harmonie of them should perish and decay, is a thing not worth therrefutation: whereof yet for all that more in due place shall be said.

Now many there be, which haue thought the conuersions and chaunges of estates and

A and Commonweales, to depend of the force, power and motion of the superiour celestiall bodies: which to discover, were a matter of infinit difficultie, which yet for all that should not be so great, if Commonweales should as men and other things take their beginning. And albeit that the state and ruine of Commonweales should wholly next vnto God depend of those eternall lights, and of their mutuall coniunctions and oppositions, yet could thereof no certaine doctrine be deliuered or gathered, for the great varietie and inconstancy of them which haue obserued the force and course of the celestiall stars & orbes; insomuch, that some one hath written the same star in the selfe same moment to haue bene in his direct motion, and another hath likewise written the same to be retrograde, which yet for all that, was to bee seene in the heauens stationarie and immouable. So that they are by their owne rashnesse to be reuelled, which vaunt themselues to be able without error, to foretell the force and power of the starres, vpon cities and Commonweales; as also what effects they shall for many yeares to come produce, when as in the very motion of the moone, which of all the other planets hath in it least difficulty there is not one of them which well agreeth with one another. So *Cyprian Leonicius*, following the table of *Alphonfus*, (the euident error of whom *Copernicus* hath declared) hath made so apparant faults, as that the great coniunctions of the superior planets were seene one or two moneths after his calculation. And albeit that *Gerardus Mercator* haue endeouored by certaine eclipses of the sun & of the moone, by antient writers set downe, more curiously than any other, to iudge of the course and order of the whole time from the beginning of the world; yet so it is, that all his obseruations threaten a fall, as grounded vpon a false supposition: which can in no wise be true, For he supposeth that in the creation of the world, the sunne was in the signe Leo, without any probable reason, following the opinion of *Iulius Maternus*, contrary to the opinion of the Arabians, and of all other the Astrologers, who write, that the sunne was then in the signe Aries: being yet both therein decciued; these, six signes; and *Mercator* too. For why it is manifestly to bee proued, not onely by the most antient orders and customes of all people, but by the most diuine testimonies of holy scripture also, The sunne in the creation of the world, to haue bene in the signe Libra: wherby the Feast of the gathering of the fruits is commanded to be kept the last day of the yere, that is to say, the two and twentieth day of the seuenth moneth; which *Moses* hath expressly written to haue bene the first, before the departure of the people out of Aegypt. Which to the intent it might be the lesse doubted of, wee reade to be oftentimes by him repeated: for when he had comanded the feast day Abib, that is to say, The feast of weeks, which the Greeks call *πεντηκοστήν*: he ioyneth herunto these words, *וזה חמשה עשר יום תקופת חשון*, that is to say, And the feast of the gathering of fruits in the end of the yere. But the last moment of the yere past, is the beginning of the yere following; as *Orus Apollo* writeth, the Aegyptians to haue declared the reuolution of the yere, by a dragon turned about into a circle. But *Iosephus*, the best interpreter of antiquity, declareth the moneth Abib, which of th Chaldaies is called Niscan, and of vs before, March, but now Aprill, to haue benne in order the first for the deliuerance of the people out of the bondage of Aegypt: but yet the moneth which of the Chal-deis is called Echanim, of the Hebrewes Tisri, which was our October, but afterward fell into our September, to haue bene by nature the first. All which, not onely *Iosephus*, but almost all the Hebrew Rabines also, namely *Eleazar*, *Abrabam*, *Ezra*, *Ionathas* the Chaldean interpreter, with almost all the rest, constantly affirme. Which for that it hath great force for the discerning of the ruines of Commonweales, is of vs more manifestly to be explained. The antient schoole of the Hebrewes, begin the reading of *Moises* his bookes, the Genesis, in Autumne: and *Samuel*, the most antient Ra-

The notable errors of the Astrologers

The sunne in the creation of the world to haue bene in the signe Libra.
Exod. 23. ver. 16
Exod. 11. ver. 2

The world to haue taken beginning in Autumne.

bine of the Hebrewes, appointeth the first Tecupa, or yearly conuersion of the yeare, **F**
 in the Autumne equinoctiall: whereby it is manifest, the doctrine and customes of that
 most antient nation, to concurre and agree with the law of God. The same was the
 doctrine of the old Aegyptians and Chaldies also, concerning the beginning of the
 yeare, from whom all the mathematicall sciences tooke not onely their beginning, but
 were from them to all other nations of the world deriued also. So *Iulius Firmicus* wri-
 teth, the Aegyptians hauing receiued it from their ancestors, to haue deliuered it vnto
 posterity, The sunne in the beginning of the world to haue bene placed in the last part
 of Libra. The same was also the opinion of the Indians, who are yet worshippers of the
 Sunne, & of the Moone, as the Spaniards haue reported. And although the yere of the
 Grecians, tooke beginning from the summer Solstitium, yet neuerthelesse the people **G**
 of Asia beganne their Olimpiades and the beginning of the yere from Autumne. The
 Romans also from the remembrance of most antient aniquitie, began the yeare from
 the Ides of September, *Lex vetusta est (saith Linie) & prisca scripta literis, ut qui Pra-*
tor maximus sit, Idibus Septembris clauum pangat, It is an old law (saith he) and written
 in old antient letters, that he which was the great Prouost, should euer the Ides of
 September driue or fasten a naile. This naile *Festus* calleth *annalem*, or an annuall naile,
Qui quotannis figebatur in dextra parte capitolij ut per eos clauos numerus colligeretur an-
norum, Which was euerie yeare fastned in the right side of the Capitoll, that so by
 those nayles the number of the yeares might be gathered. *Augustus* appointed also the
 Olympic games in the moneth of September. And albeit that the Astrologers (as **H**
 other people also for the most part) follow a new manner of account of the yeare, set
 downe by *Moyse*, and begin their account of the spring diuision, yet neuerthelesse
 they begin their tables of the celestiall motions receiued from the Aegyptians and
 Chaldeies from the Autumne diuision. VVhich antiquities, with the authoritie of so
 many and so worthy men, although they make the matter manifest enough and out
 of all doubt: yet euen nature it selfe leadeth vs thither also, as that wee must needs con-
 fesse the beginning of the world to haue bene in Autumne. For if we grant, as we must
 needs, man as all other liuing creatures also, to haue bene by almighty God created in
 such state and perfection as that they should need no nurses; so also is it to be thought
 him to haue provided for all liuing creatures, and especially for mankind, ripe fruits for **I**
 him to feed vpon, and most beautifull to behold, planted in most faire gardens, as is in
 the sacred booke of Genesis to be seene: which can in no wise be done, but that the
 world must be created in the beginning of Autumne. For why, *Adam* was created
 about Iordan, whereas corne in the spring time yet shooteth not on eare; and the mo-
 neth Abib is so called, for that the corne in the spring time in those places runneth but
 vp in spindle, and the trees but scarcely bud: neither is the law of nature, or the season
 of the spring, or of Autumne, from the beginning of the world chaunged. Where-
 fore *Plutarch* in his Symposiaques, when he pleasantly questioneth, W hether egges or
 birds were first: resolueth birds to haue bene first created: and so whatsoeuer things els
 are contained in the whole world, to haue bene in all parts created perfect. For other-
 wise if God should haue created man a crying child, or calues for oxen, or egges for **K**
 birds, he must also haue created nurses to haue suckled them, and birds to haue hatched
 them: which if it be absurd and foolish to say, so must also of necessity those things bee
 absurd, whereof these things follow, *viz.* the world to haue bene created in the begin-
 ning of the spring, and young shoots to haue bene made for fruitfull trees, and so like-
 wise other things to haue bene created young, and not in their perfection. Whereby
 it is euident them greatly to erre & be deceived, which accounting & taking the begin-
 ning of the world from the spring, and the beginning of the day from noone, doe with
 their

The antient Ro-
 maines to haue
 begun the yeare
 in September.

A their vaine coniectures go about to blot out and extinguish the authoritie of the sacred scriptures, as also the most auncient records of the Indians, the Chaldes, the Aegyptians, and Latines, and all forsooth because cold weather still followeth after Autumne: they feating (as I suppose) least *Adam* being a naked child, should haue taken cold. Seeing therefore the Astrologers, euen as these men also to haue laid false principles and grounds, of the celestiall motions, and much to differ amongst themselves, concerning the course of the starres and planets, they can therefore (I say) set downe nothing certaine, concerning mans affaires, or the ruines of cities and Commonweales.

Astrological predictions vncertain.

But yet it hath lesse probabilitie by the foundation of townes and cities, to iudge of the rising or falling of Commonweales: as many do also of houses before they lay the foundations of them, to foresee and let that they should not be burnt or rased, or sicke of the falling sicknesse: which to doe is a meere folly, differing little from extreame madnesse, as though natures most constant order should depend of mans lightnesse, and the force of the celestiall Spheres, of the will and pleasure of a base carpenter or mason. Indeed by the law it is provided, That the value of houses burnt should bee deemed by their age and continuance, for so it is read in the old Hetruscan copie: although that *D. Cuias* a most diligent interpreter of auncient readings, be of their opinion, which for *etatis*, thinke it ought to be read *quantitatibus* (as who should say by their quantities, rather than by their age) whereunto the lawyer neuer had respect. For his meaning was, That houses according to the stuffe and matter they were built of, were to be esteemed of longer or shorter continuance: as if an house were built of clay or mortar, it was esteemed to be able to last some fourescore yeares: in such sort as that if it had cost an hundred crownes at first to build, being burnt fortie yeares after, there should halfe the price thereof be abated in the estimation thereof: For as for houses built with bricke (they as *Plinie* saith) if they be built vpright are euerlasting. And so *Vitruuius*, and all other builders were wont to esteeme of the losse sustained, by the age and continuance of the houses burnt. For to esteeme of them by the elle, or by the greatnesse, so a barne built of clay or straw should be esteemed more worth than smaller buildings built of marble or of porphiree, as the temple of Porphiree at Sienna, one of the least, but most costly buildings of Europe. But the deciding of such questions we must referre to *Vitruuius*, and other builders. And as for that some thinke we are by the foundations of cities and other buildings, to iudge what shall be the state or successe of a kingdome or monarchie should lesse need the refutation: but that *M. Varro* (whome *Tullie* writeth to haue in learning excelled all other Greeks and Latins) commaunded *Tarentius Firmianus* to declare vnto him the Horoscope of the citie of Rome: for so *Plutarch* and *Antimachus Lyrius* report. Whereupon he by the progresse of that Commonweale gathering the causes thereof; and by things ensuing after, gesing at things forepast, & so by rettogradation iudging the causes by the effects, by most light and vaine coniectures affirmeth the foundation of the citie to haue bene laid in the third yeare of the sixt Olympiade, the one and twentieth day of Aprill, a little before three of the clocke in the afternoone, *Saturne*, *Mars*, and *Venus*, being as then in Scorpio, *Iupiter* in Pisces, the sunne in Taurus, the moone in Libra, Gemini holding the heart, or middle of the heauens, and Virgo rising. But seeing that the chiefe points of this figure belonging vnto *Mercurie*, and that this whole celestiall Scheame betokeneth men of traffique, or otherwise studious of Philosophie, and all kind of learning, how can it come to passe, that these things should agree, or bee applied vnto the Romans, a people of ali others most courageous and warlike? Howbeit that *Taruntius* in this his figure, or Horoscope of the foundation of Rome, is most shamefully deceived, as hauing therein placed the celestiall orbes in a situation quite contrarie vnto nature,

The rising or falling of commonweales not to be iudged or deemed of by the foundation of the townes or cities therein.

Taruntius Firmianus deceived in his horoscope of figure of the foundation of Rome.

viz. Venus opposit vnto the Sunne : which yet can neuer be aboue eight and fortie degrees at the most distant from the Sunne : which yet were a thing excusable and worthy to be pardoned, if it had bene by him done by forgetfulnesse : as it happened to *Augerius Ferrerius* an excellent Mathematician, who in his booke of Astronomically iudgements, hath set Venus and Mercurie, one of them opposit vnto another, and both of them opposit vnto the Sunne : a thing by nature impossible, and hee himselfe acknowledging that Mercurie can neuer be six and thirtie degrees from the Sunne. Yet true it is, that *Iohn Picus* earle of Mirandula, grounding vpon this demonstration of the celestial motions, without cause blameth *Iulius Maturnus*, for that he placed the Sunne in the first house, and Mercurie in the tenth, which cannot be (saith he) except the sun should be from Mercurie the fourth part of the circle (or three signes distant :) not hauing regard, that the globe may so be placed, to endline vnto the North, as that the sun rising, Mercurie may come vnto the meridian, yea vnto the tenth house two houres before noone, and yet not be thirtie degrees from the sunne. But *Plutarch* writeth *Antimachus Lyrius* to haue left recorded, the Sunne to haue bene then eclipsed, which yet he saith to haue bene the diametre of the circle distant from the Moone. And yet there is another greater absurditie in that theame of *Taruntius*, in that hee placeth the sunne in Taurus the xxj day of Aprill, which then entred not thereinto vntill the thirtieth of Aprill. Howbeit also that *Lucas Gauricus*, who collected the celestiall theames of many most famous cities, differeth altogether from this theame of Rome, by *Taruntius* before set downe: for he placeth Libra in the East, as doth also *Manlius*. But of all absurd things none is more absurd, than by the ouerthrow of cities to measure the destruction of the estate or Commonweale, whereas before we haue declared, that a city oftentimes may be ouerthrowne and laid euen flat with the ground, and yet the state and Commonweal therof remaine, as we haue before shewed of the citie of Carthage: as oftentimes to the contrarie the estate and Commonweale may perish, the walls and other buildings yet standing all whole.

Wherefore then I rest not vpon such opinions, and much lesse vpon that which *Cardan* saith, who to seeme more subtilly than others to handle these hidden and obscure matters, & to raise an admiration of himselfe with men vnskilfull of these things, maintaineth the beginnings and encreasings of the greatest cities and Empires to haue come from that Starre which is the last in the taile of Virsa Maior, which he saith to haue bene verticall vnto the great citie of Rome at the foundation thereof, and from thence euen by the helpe and working of the same Starre translateth the Roman Empire to Constantinople, and so afterwards into Fraunce, and so from thence into Germanie: which although they be so set downe but by a most brainsicke man, yet do men ignorant of the celestiall motions wonderfully admire the same, and are therefore by vs to be refuted. For perceiuing that last starre of Virsa Maior to be daily vnto manie people verticall, though perpendicular vnto them onely which are subiect vnto the circle which that starre describeth, *Cardan* saith it should be verticall at such time as the Sun toucheth the Meridian circle: in which state he supposeth it to haue bene, at such time as *Romulus* the founder of the citie laied the foundation thereof: which could not by nature so be, *viz.* that the last starre of Virsa maior in the same howre, that is to say at noonetide, should together with the Sun touch the verticall circle: For that starre being now in the xxj degree of Virgo, by proportion of the motion of the fixed starres, by reason of the motion of the eight Sphere, it must needs haue bene in the xix degree of Leo at such time as the foundation of the citie of Rome was laied, and the Sun in the xix. degree of Aries, as the foregoings of the Sun declare. So that that starre was the third part of the circle, or foure signes and twentie degrees distant from

Cardan his error detected and his opinion reiected.

- A** from the verticall, when as it ought to haue beene in the same signe, and in the same degree of the signe wherein the Sunne was, if *Cardan* his doctrine were true: who yet when he knew the same starre to haue beene verticall vnto many great cities at the time of their foundation, since the beginning of the world, the Sun also then being in the Meridian; he to meet with that obiection, said the Monarchie to be due but to one of them. But why that to the Romans from whose verticall it is distant twelue degrees, rather then to the Scottish fishermen which dwell neere vnto the Orcades? or vnto them of Norway, and other the Northren people? vnto whom the same starre is not onely verticall, the sun touching the Meridian in September, but is also directly perpendicular? Yet is it also more straunge, to say the same starre to haue giuen the
- B** Empire to Constantinople, considering that that citie was built nine hundred yeares before that the Empire was thither translated. Ioining hereunto also that the horoscope of the citie of Constantinople found in the Popes librarie in the Vatican written in Greeke letters, calculated by *Porphyrie* (as some affirme) and copied out by *Lucas Gauricus* the Bishop, declareth the Sunne then to haue beene in the xvij degree of Taurus, the Moone in the v of Leo, Saturne in the xx of Cancer, Iupiter and Venus coniunct in the same signe, Mars in the twelfth, Mercurie in the first of Gemini, Aquarius holding the verticall of heauen, and the xxij of Gemini in the Leuant; which he setteth downe to haue beene in May vpon a Munday, two howres after the sunne rising.
- C** An other celestiall Theame of the same Citie is also taken out of the Vatican, calculated by *Valens* of Antioch, later than the former by fortie minutes. But yet that is verie absurd which *Gauricus* the good Bishop to come to his acconnt supposeth the citie of Constantinople to haue beene built in the yeare of our Lord 638, three hundred yeares after the death of *Porphyrie*: which yet it is manifest to haue flourished about 500. yeares before Christ: which he thinketh also to haue beene afterwards taken by the Turks armie in the yeare of Christ 1430. when as in truth it was by them woon and sackt in the yeare of our Lord 1453, the xxix day of May, being 1800 yeare before taken by the French men: wherein they raigned vntill the time of *Clyarus* king of Thracia, as *Polybius* (tutor vnto *Scipio Affricanus*) writeth; at which time it was called Bizance.
- D** And againe afterwards also was taken by *Pausanias* king of Lacedemonia in the Median warre. And yet more, afterwards also was besieged by *Alciades* generall of the Athenians. And long time after, three yeares together againe besieged by *Seuerus* the Emperour, who after he had sacked it, razed it also downe to the ground, and carrying away the rest of the citisens into captiuitie, gaue the ground whereon it stood vnto the Perinthians about the yeare of our Lord two hundred: which yet not long after was againe reedified, and by *Constantine* the great wonderfully entiched after that he had thither translated the seat of his Empire. And yet againe after that, was with fire and sword most cruelly wasted by the armie of *Galienus* the Emperour, all the citisens therein being either slaine, or else caried away into captiuitie.
- E** Yet ceased it not for all that to be still the seat of the Greeke empire, vntill that the Frenchmen and Flemings vnder the conduct of *Baldwin* Earle of Flaunders seized thereon; which they held together with the Empire, vntill that about fiftie yeares after they were by the *Paleologi* againe driuen out: who hauing so recovered the citie there raigned, vntill that it was by *Mahomet* the great Turke woon. All which changes of the Empire, and ruines of the citie, *Gauricus* neuer touched; neither did *Cardan* himselfe so much as suspect them: otherwise I suppose he would neuer haue written things so absurd, and so disagreeing with themselves. But great maruell it is that this *Cardans* starre hath had such power as to graunt the Empires of the world to Italie, Greece, Fraunce, and Germanie, when as it was to them but verticall, and yet hath had

had no power at all vpon the realmes of Norway and Sweden, where it is not onely F
verticall, the Sunne being at the Meridian in the moneth of August, but is also perpen-
dicular: and yet neuerthelesse distant from Rome and Constantinople in latitude
twelue degrees at the least. Besides that, why should he giue vnto this Starre (which
some foolish Astrologers take to be Saturnia) more power than to others, both for
their greatnesse & nature more notable? why doth he exclude from the gouernment
of the world Regulus the greatest of all the fixe starres? whie Medusa, Spica, the great
Dog, the Vultur, all most faire and beautifull statres? whie in briebe a thousand and
threescore others, (for so many there are accounted beside the wandering starres) vnto
whom the Hebrew Mathematicians had added thirtie six mo also? Sufficeth it for this
time to haue reiected these errors so grosse, as the day it selfe is cleere.

The error of
Peter Cardinall
of Arliac.

But for asmuch as it were a thing infinite to refell all mens errors in this kind of
matter, I will onely touch theirs, who haue thought themselues wiser than the rest,
and haue beene had in reputation as best scene in the iudgement of the heauens for
the chaunges of Commonweales: such as was *Peter* of Arliac Chauncelour of Paris,
and afterwards Cardinall in the yeare 1416: For he writeth the beginnings, chaunges,
and ruines of religions and Commonweales, to depend of the motion and coniuncti-
on of the superiour Planets. And to mee it seemeth right straunge, whie *John Picus*
Earle of Mirandula hath without farther search, accounted of the shamefull errors of
this man, concerning the knowledge of the Celestiall Spheres, as of most certeine
& approued demonstrations; who hauing noted six and thirtie great coniuncti- H
ons of the superiour planets, Iupiter & Saturne, since an hundred and fiftene yeares after the
creation of the world, vnto the yeare of our Lord Christ 1385, there are not of them
six true, and scarce any of them set in such place and time as they ought to be. *Leu-*
pold, *Alcabice*, and *Ptolomee* were also of the same opinion, viz. the remouings of
people, warres, plagues, deluges, plentie, dearth, the chaunges of Estates and Com-
monweales, to depend of the motion and coniunction of the Planets, and especially of
the superiour planets Saturne I say and Iupiter, and so much the more if Mars be also
in coniunction with them both. And so indeed as oft as they are in coniunction toge-
ther, such things thereof ensue as often times draweuen the wiser sort into admira-
tion: howbeit that no necessitie be imposed vpon man kind by the influence of the I.
heauens. But howsoeuer that be, it is manifest the Cardinall of Arliac to haue beene
most grieuously deceiued, who reckning vp those great coniuncti-
ons, supposeth it by his account to haue beene seauen thousand yeares since the cre-
ation of the world, following therein the errors of *Alphonsus*, *Eusebius*, and *Beda*;
which the great consent not of the Hebrewes onely, but of all Christians also hath
long ago reiected: so soone as by the old interpretation of the Bible it was perceiued
them to haue erred in their account about a thousand five hundred yeares: whereas
all Churches at this present follow the more certeine account of *Philo* the Iew, who
followed almost the mean betwixt *Iosephus* and the later Hebrewes: for *Iosephus* diffe-
reth 342 yeares, and *Philo* but an 160 from the other Hebrewes. Whereof it is to be
gathered this present yeare, which is from the birth of our Sauour Christ 1583, (wherin
Bodin writ these things in Latin) to haue beene 5531, or at most 5555 since the crea-
tion of the world. Wherefore *Arliac* is deceiued, who put the coniunction of the
superiour Planets seauen thousand yeres ago, in the 320 yeare after the creation of
the world: which after that computation must haue happened twelue hundred yeares
before that the world was made. The same man doth suppose also that at the creation
of the world, the Horoscope whereof he describeth, the first degree of Cancer to haue
beene then rising, the Sunne then to haue beene in Aries, (which to be false we haue
by

A by necessarie arguments before proued) the Moone and Venus in Taurus, Saturne in Aquarius, Iupiter in Pisces, Mars in Scorpio, Mercurie in Gemini: which is all false and quite contrarie vnto the nature and motion of the celestiaall Spheres, which is manifest vnto euery man which shall more narrowly looke thereinro, or take account of the motions of the Planets from thence vnto these times: not to speake of that, that he placed the Sunne in the xix degree of Aries, and Mercurie in the xv of Gemini, hauing so against nature diuided the one of them from the other six and fiftie degrees, as we haue before declared: *viz.* that Mercurie when he is farthest from the Sunne, neuer to be farther off than six and thirtie degrees. Which may suffice in passing by, or show that the Hypothesis of the Cardinal of Arliac and his foundation being false, the rest that is thereon built cannot stand. But this he had propounded vnto himselfe, It to be a thing contrarie vnto the maiestie of the Planets, if in the creation of the world he should place them other where than euery one of them in their owne throne and charriot: which deuises of the vnskillfull, are more light and farther from the antiquitie of the Chaldeis; than that they deserue to be refelled.

But how much more certainlie and better do they, which hauing consideratie looked thorow the antiquities of the Hebrewes, and the animaduertions of *Copernicus* (who most diligently corrected the errors of *Alphonsus*, and of the Arabians) going orderly retrograde from these oppositions and coniunctions of the Planets which we now behold, vnto the verie first beginning, iudge of the reuolution of the time past, as also of the chaunge and state of Commonweales; if yet by this meanes any such iudgement, free from impietie and rashnesse may be made. Neither is it to be hoped (except happellie in an innumerable sort of worlds) that the three superiour Planets shall meet together in the first point of Aries, whereof our wisards rashly diuine a generall destruction of Commonweales, as also of the whole world then to ensue by fyre from heauen. Howbeit that in the yeare of our Lord Christ 1909, there shall be a meeting together of the three superiour Planets in the ninth degree of Aries: which yet for all that is no true coniunction, as not made by the centers, but by the Orbes and Spheres of the Planets. And in the yeare 1584, Saturne and Mars shall be in coniunction in the first point and 46 minutes of Aries, and Iupiter in the same signe, but distant from them twelue degrees, with the Sunne and Mercurie: which coniunction shall scarce chaunce againe in the reuolution of eight hundred yeares. And in this sort it is lawfull for a man looking into the yearely course of time, by writing to commend vnto posteritie the chaunges of cities and Commonweales, and so by things precedent and already forepassed to iudge also of things to come: yet sauing alwaies the maiestie of almightie God, who is himselfe bound vnto no lawes of nature, neither hath thereunto bound any of his seruants. Wherein many greatly offend, who thinke the power and influence of the celestiaall Spheres to be nothing, when as yet for all that their strength and power hath alwaies beene most great and effectually, not onely vpon these elements which we here see, and so vpon all other sorts of liuing creatures, but euen vpon them also which liue like beafts, as* in sacred writ is to be seene, and yet of the good nothing at all to be feared. So many stood in great doubt in the yeare 1524, wherein the three superiour Planets, Saturne, Iupiter, and Mars were in coniunction in the tenth degree of Pisces, the rest of the Planets together with the Dragons head being in Aquarius & Pisces, both of them waterie Signes. Which selfe same yeare in the moneth of Februarie were twentie other coniunctions of the Planets also among themselves, besides the fixe starres; which of all other things, was a thing most worthie the admiration. So that hereupon the Astrologers all the world ouer agreeing together for the destruction of the world, with a great feare terrified

How a man may without offence preiudge the chaunges of Cities and Commonweales.

Ioh. 39. and 40.

Vaine feares often times conceiued vpon Astrologers vaine predictions.

the minds of many weake men; in that they so constantly all with one consent affirmed, the world to be now againe ouerwhelmed with an vniuersall deluge and inundation of waters; in somuch that many miscreants caused shippes to be made for them to saue themselves in from such the rage of the waters, and especially *Anriolus* President of Tholose a most cunning lawier, but a man either ignorant, or a contemner of the lawes of God, howbeit that he heard the promises of God still preached vnto him, and the oath by him made vnto * *Noah* that he would no more destroy the world by water. And true it is that in that yeare were floods and inundations of waters in diuers countries, but yet no such generall deluge as was foretold and feared, neither any cities or countries at all knowne to be drowned. Wherefore to affirme any thing of the chaunges and ruines of Commonweales, it sufficeth not to behold onely those great coniunctions of the three superiour Planets, but also diligently to obserue and note the meane coniunctions, which ate euery two hundred and fortie, and euery twentie yeare: as also the eclipse of the Sunne, and of the Moone, with the oppositions and coniunctions of the inferiour Planets amongst themselves, and with superiour planets, and in brieft their mutuall traiections, as also the force and power of the fixe starres, and their respect towards others. True it is that many of the auntient writers haue noted either dearth, or popular diseases, great mortalitie of lining creatures, or the remouing of people, inundations of waters, or the destruction of cities, or chaunges of kingdomes to haue followed such coniunction of the superiour planets; yet not in euery place generally, but in certaine countries and places onely, whereby they haue by a certain coniecture iudged this or that signe to be by God deputed vnto this or that countrie. And hereof according to the power of the foure elements they haue diuided the twelue celestiaall signes into foure parts, and haue thereof left certaine instructions to posteritie: whereof for all that because they were not by long experience approued they could make no certaine art: as the Chaldies haue fained, who vaunted themselves to haue spent 470 thousand yeares in the practise of natiuities, the better to perswade men of the certaintie of their knowledge, and to make it thereby the more saleable. Which the Chaldean bables spred abroad farre and wide vnto all people, but vnto none more foolishly then to the Indian Chinois, who say 783 thousand and seauen hundred sixtie two yeares, to be the last yeare past since the creation of the world. Others there be which in that matter lie not so loudly and yet impudently enough. For *Linus* the most auntient writer of the Greekes, *Orpheus* and *Heracitus*, shut vp the period of the greatest yeare within the reuolution of 360 thousand yeares, whereof they supposed an hundred fourescore foure thousand to be past. But a certaine *Egiptian* priest vaunted before *Solon*, the *Egiptians* his countrie men to haue an historie of twentie thousand yeares written in Hieroglyphicall letters. And a little while after *Herodotus* (called the father of historie) vnderstood from the same *Egiptians*, recordes of thirteene thousand yeares to be extant in their sacred letters. *Diodorus* yonger then the rest going into *Egipt* to find out the trueth, heard certaine Priests to say antiquities of three and thirtie thousand yeares old to be found amongst the *Egiptians*: but when he came to wey the trueth of the matter in equall ballance, he found all their antiquitie to consist but of three thousand seauen hundred yeares: the computation of which time from the beginning of the world, agreeth altogether with *Philo*, or within little lesse then two hundred yeres. And truly *Callisthenes* perswaded by the speech of *Aristotle* his master, when as others at the sacking of Babylon greedely sought after the Persian wealth, he diligently searched out and gathered together the bookes and antiquities of the Chaldies, and there noted all the historie of the Chaldies to haue bene comprehended in 1903 yeares: which time well

* *Genes.* 7.The vanitie of
the Chaldean
Astrologers.

A well agreeth with the sacred historie, if we account the time from *Nimrod*, who first obtained the soueraigntie of the Chaldies: which historie is to be thought so much the truer, for that it is so reported by *Simplicius* a mortall enemy of the Christians, as wee haue elsewhere declared. And therefore *Ptolomey*, who farthest repeating from vttermost remembrance the antiquities of the Chaldies (of them I say, which had noted the stedie courses of the celestiaall Spheres) bringeth the beginnings of the celestiaall motions no farther than from *Nabonassar*, and from those eclipses of the moone which happened in the time of his raigne, that is, the yeare of the world 3750: But *Ptolomey* flourished in the time of *Adrian* the emperour, about foure hundred yeares after *Nabonassar*. Wherefore it ought not to seeme straunge to any man, if he neuer so much as once suspected the motion of trepidation, neither vnderstood the reuolution of the eight Sphere: yea he well obserued not the Equinoctials: For hee saith, The Equinoctium to haue bene the the twentieth sixt of September, after the sunne rising: which *Hisparchus* had taught to haue happened 285 yeares the same day of the moneth, about midnight, whose errors could scarcely be perceiued in the time of our ancestors: as not long ago *Io. Regiomontanus* shewed the motion of trepidation, before vnto Astronomers vnknewne. Wherefore by what meanes could they by any art conclude mens fortunes, or the chaunges and ruines of cities and Commonweales, who vnderstood not so much as the celestiaall motions, and much lesse the histories of all nations, when as yet they scarcely knew the tenth part of the world?

C Wherefore they do foolishly which attribute the *Quadripartite* booke to *Ptolomey*, wherein the fiery Triplicities is giuen to Europe, and those countries which lye betwixt the West and the North; the ayrie triplicity vnto Asia, and those places which are seated betwixt the North and the East; the watry triplicity vnto Affrike, and the earthy triplicity vnto the other places. Neither haue those things followed the coniunctions of the superiour planets, which should haue followed had their rules bene true. Now if any man thinke (as many there be which think right foolishly) the places of the signes being chaunged, the force and nature of the celestiaall Spheres to be chaunged also; he must surely vterly subuert all the knowledge of the force and power of the stars by them before set downe and deliuered: seeing that the fix starres are found since the beginning of the world to haue passed through the fourth part of the eight Sphere: but since the time wherein the course of the celestiaall Spheres began first to bee of the Chaldeis noted vnder king *Nabonassar* vnto this our time, to haue ouergone almost a whole signe, *ἐς τὰ ἐπομνεα*, or which is all one, the Equinoctials in the same space, to haue prevented the staies of the wandering starres, *ἐς τὰ προγεγμενα*, and yet neuertheless the force and power of the celestiaall houses approued in mens natiuities, is still the selfe same that it is reported to haue before bene: which thing to be so, *Cardan* himselfe confesseth: whom yet for all that it ashamed him not to write the Britons, Spaniards, & Normans, in auncient time gentle and modest nations, to be now (the regions of the starres being changed) become slie, craftie, and deceitfull theenes; for that they were in auncient time gouerned by Sagittary, but now by Scorpio: vnto whom the same may be answered which *Cassius* did vnto a certain Chaldean Astrologer, who forbad him to fight with the Parthians before the moone was out of Scorpio: vnto whom *Cassius* pleasantly answered, *Non Scorpiones metuo, sed Sagittarios*, I feare not (said he) Scorpions, but Sagittaries; meaning the Parthian archers, by whom the Roman legions wherewith *Crassus* in Chaldea discomfited and ouerthrowne. And truly if *Cardans* opinion were true, the nature of all things must needs so be subuerted, which yet is still the same which euer it was: For the people toward the North are now taller and stronger, and more warlike than the rest of the people of the world; and such *Vitru-*

The triplicities of the celestiaall signes not to be determinatly assigned vnto certaine regions and countries, as the Astrologers appoint.

The ieast of *Cassius* vnto a Chaldean Astrologer.

The coniuncti-
ons of the Superi-
or Planets to
haue oftentimes
wrought great
effects for the al-
teration and
changing of
Commonweales.

Nus, Plinie, Casar, Strabo, and Plutarch, haue writ them to haue benee sixteene hundred F
yeare agoe: and therefore them to be pleasant, drunkards, grosse witted, hoarse, gray
eyed, yellow haired: but Southerne people to bee sad, small of stature, leane, weake,
smooth, blacke eyed, curled haire, and cleere of voice. And yet it is manifest, the con-
iunctions of the superiour planets in the same celestially house, *viz.* in Scorpio to haue
showed their force (if it were any) in Asia, and Europe, and not in Affrike, which they
say to be governed by the signe of Scorpio. For before the chaunge of the Ro-
man empire was made, and that Popular estates transferred vnto the soueraigntie of
Casar alone, the superiour planets with a great coniunction met together in Scorpio:
which coniunction chaunged againe about seauen hundred yeres after: at which time
innumerable legions of the Arabians hauing receined the new doctrine of *Muhamed*, G
rebelled against the Greeke emperours, subdued a great part of the East Asia, abolished
the orders, customes, rites, ceremonies, and lawes of the Christians, when as yet Asia is
in situation contrarie vnto Europe. The same coniunction happened in the yeare of
our Lord 1464, after which ensued diuers motions of the people, almost in all parts of
the world. For *Ladarnachus* king of the Tartars was by his subiects thrust out of his
kingdome: *Henrie* the sixt, king of England was by his subiects also taken and in prison
slain, *Edward* the iiij of a subiect made king: *Frederike* the third driven out of Hungary
by *Matthias Coruinus*, who of a prisoner was cholen a king: *Lewes* the eleuenth the
French king, by his nobilitie and vassals besieged in his principall citie, and brought in
daunger to haue lost his estate. At which time also *Alexander* (commonly called H
Scanderbeg) the king of Albania his sonne, brought vp in the Turkes court, reuolted
from the Turke, and tooke vp armes against him. Yet is it worth the noting, that the
great coniunctions of superiour planets, show their effects more in Scorpio, a martial
signe, than in any other the rest of the signes, and so much the more if *Mars* be there
also, or else some one of the other planets be also in coniunction or opposition with
them. With like coniunction the same planets met together also in Sagittarie, in the
yeare of our Lord Christ 74: at which time all the land of Palestine was sacked, the ci-
tie of Hierusalem burnt and rased, and eleuen hundred thousand dead in the warres:
at which selfe same time were scene in Europe great ciuill warres, and foure emperours
slaine the same yeare. Two hundred and fortie yeres after, another coniunction of the I
same planets chaunced in Capricorne, after which ensued wonderfull chaunges not
onely of Commonweales, but euen of empires and kingdomes also: *Constantine* the
Great being therein chiefe doer: who hauing put to flight and slaine foure emperors,
and translated the seat of the empire from the West into the East, by a perpetuall law
tooke away the vaine and superstitious worshipping of the Paynim gods. We see al-
so, that after the coniunction of the same planets in Aquarius, in the yeare 430, the
Gothes, the Ostrogothes, the Francons, the Gepiges, the Heruli, the Hunnes, & other
Northerne people going out like swarmes of bees, ouerranne and ransacked the pro-
uinces of the Roman empire, and most cruelly sacked the verie citie it selfe, sometime
the seat of the empire. And againe in the yeare 1524, when as the coniunction of the K
same superiour planets, (yea twentie other coniunctions) had happened in Pisces, most
great motions of the people ensued thereafter in many places in Europe: the people in
armes against the nobilitie set all Germany on a broyle: in which warre an hundred
thousand men are reported to haue bene slaine: the Rhodes by the Turkes was taken
from the Christians: *Frederike*, his brother *Christierne* being driuen out of his king-
dome, possessed the kingdome of Denmarke: *Gostauss* of a priuat man became king
of Sweden: *Francis* the French king ouerthrowne at Pavia was taken prisoner by the
Spaniards. Besides that, it is to be scene, that after the great coniunction of the same
supe-

A superiour planets in Leo, in the year 796 king *Charlemaigne* ouerthrew the estates of the Lombards, tooke their king, and conquered Italie. At which very selfe same time the Polonians made choyce of their first king: with diuers other notable and remarkable chaunges. So also fortie yeares after, the same coniunction happened in the signe of Sagittarie, when as the Moores sacked diuers countries, inuaded a part of Grèce, and ouerran Italie: and the Danes were then vp in great ciuill warres: when as at the same time *Charlemaigne* made himselfe Lord of Germanie, tooke away the Paynim superstition in Saxonic, and chaunged all the Commonweales and principalities in Germanie, and Hungarie, which he brought vnder his obeyfance. With this great coniunction happened also foure eclipses: which hath not happened since: but

B six hundred thirtie six yeares after, *viz.* in the year 1544, in which time haply there had bene moe notable changes scene, if the great coniunction which hapned the yeare following in Scorpio, had happened the same yeare. And yet neuerthelesse as it was, all Germanie was vp in armes; which warres continued seuen yeares after. In brieft, if any foreknowledge be to be had from celestiaall things, for the chaunges of Commonweales, we must consider the coniunctions of superiour planets, since 570 yeres; with the coniunctions, eclipses, and aspects of inferiour planets, and of the fix starres at the time of the great coniunctions, and to compare them with the truth of histories, and of times with coniunctions before past; and not wholly to rest vpon opinion of them, which haue determinatly assigned the Triplicities vnto regions, which I haue by euident examples before shewed not to be of any good assurance, but rather to stay vpon the nature of the signes and of the planets. And yet for all that to referre the causes and effects of them vnto the great God of nature, and not to tie them vnto his creatures. As did *Ciprianus Leonitijs*, who of a coniunction of almost all the planets, than to come together with an eclips of the sunne in the year 1584 by his writings (as from an oracle) denounced the end of the world euen then to come, saying, *Procul dubio alterum aduentum filij Dei & hominis in maiestate gloriae suae prænuntiat*, Without all doubt (saith he) it foreshoweth another comming of the sonne of God and man in the maiestie of his glorie. But seeing he had so strongly assured men then of the consummation of the world, why did he yet write his Ephemerides for thirtie yeares after, when as the cele-

D stiaall signes and all Commonweales should according to his predictions haue before perished? But therein he found himselfe as wel deceived, as was before him *Albumar*, who with like rashnesse had written, That the Christian religion should take end in the year 1460. And *Abraham* the Iew (surnamed *The Prince of Astrologers*) who prophesied, That in the year 1464 should be borne a great captaine (whom they call *Messias*) who should deliuer the Iewes his countrey men from the seruitude of the Christians. And *Arnold* the Spaniard, who with like follie prophesied of the comming of Antichrist, in the year of our Lord 136. But *Leonicius* might haue knowne, that since the creation of the world vnto this time, there haue bene two hundred and threescore

E coniunctions of the superiour planets, wherein were twentie foure great ones; that is to say, such as still come againe after the reuolution of two hundred and fortie yeares, *Iupiter* and *Saturne* meeting together in the same triplicite (as they call it) and the lesser euerie twentie yeares: and the meanest planets, as of *Saturne* and *Mars*, euerie thertie yeares in the signe Cancer: and the greatest of all, *viz.* of *Iupiter* and *Saturne* in Aries, which commeth againe about euerie eight hundred yeares. Howbeit that *Messahala* calleth it the greatest conjunction of all, when as the three superiour planets meet together in Aries: which yet I see not shall chaunce in the year 1584, as *Leonicius* supposeth, when as *Iupiter* shall be distant twelue degrees from the full coniunction of *Saturne* and *Mars*: which cannot rightly be called a coniunction so much as by their

The error of
Leonicius.

The opinion of
the learned He-
brewes concerning
the consumation
of the world.

Spheres. But whereas the same coniunction, yea and a greater too, together with the most darke eclipses of the sunne, and of the moone, happened in the raigne of *Charles* the Great, yet wee see not the world therefore to haue taken end. True it is, that the Hebrew learned men write, the destruction of all this elementarie world, and so of all mankind, & of all Commonweales, to ensue after euerie seven thousand yeares, by the inundation of waters, or els by fire, and so to rest a thousand yeares: after which God shal againe restore that which is perished: and that this shal be done seven times, which maketh nine and fortie thousand yeres compleat, and that then this elementarie world and the celestiall also, with all the bodies thereof shal take end, the maiestie of the great eternall God, with all the blessed spirits yet still remaining. Which they say to bee by the word of God, howbeit verie obscurely declared: when as the tilling of the ground is commaunded euery seventh yeare to be left off: and after seven times seven, not onely the tilling of the ground is commaunded to be left off, but euen slaues and debtors to be set free, and euerie man to returne againe vnto his owne lands and dwelling. Truly it is by long obseruation at length knowne and found out, the motion of trepidation of the eight Sphiere, to accomplish the course thereof, in the reuolution of seven thousand yeares, and the ninth Sphere in the space of fortie nine thousand yeares. Whereof *Io. Regiomontanus* hath since within this foure and twentie yeares made plaine demonstration: of the truth of which motion neither the auntient Chaldies nor Egyptians had any knowledge, but were thereof altogether ignorant. And albeit that the auntient learned Hebrewes, haue by the gift and goodnesse of God, had not onely the knowledge of diuine and celestiall things, but euen the hidden and secret causes of nature also reuealed and made knowne vnto them, and that from them the knowledge of most goodly things is vnto other men come: as *Porphyrie* the greatest of all the Philosophers of his time confesseth: and that this doctrine of the Hebrewes cutteth off the impietie of them which hold the eternitie of the world, or els that God was for an innumerable world of yeares altogether idle: yet doe these so learned Hebrewes attribute nothing vnto fatall necessitie, either feare any the decrees of the celestiall starres, but affirme all things to be gouerned and changed by the will and pleasure of almighty God: as by him which as oft as he will is of power to shake the nature of all things, yea euen the verie foundations of the world it selfe, as was well secne in the generall deluge, which ouerwhelmed the whole world 1656 yeares after the creation thereof.

By what order
and meane some
more certain and
probable coniec-
ture might be
made of the
chaunges and ru-
ines of common-
weales.

Yet doubt I not but that some more certaine precepts might be given of the chaunges, and ruines of Commonweales, if a man would enter into a certaine account of the time past euen from the beginning of the world: and so comparing one thing with another, and knitting one thing vnto another, shall proceed farther, and set in order the varietie of Historiographers at variencie among themselves: and also going backwards, shall of all the eclipses of the Sunne and of the Moone, euen to the beginning of the world, by most certaine demonstrations comprehend the reason of the whole time past: and compare the histories of the most true writers amongst themselves, and with the oppositions and coniunctions of the celestiall starres and bodies, knit and conioyne the same with numbers, whose force in all the course of nature is greatest: which things fouled vp in infinit obscurities, and hidden and shut vp in the most secret places of nature, are to be showed not by vaine coniectures, but by most euident and manifest arguments. Which is not to be hoped for from them which are more desirous of words than of matter or knowledge: who vpon an obstinat opinion confound the beginning of the world, and beginning the yere at the spring, which they ought to begin at Autumne, and the day at noone, which they ought to begin at euen, not remembring darknesse to haue bene before light, confusion before order, and a rude confused Chaos

- A** Chaos before the world it selfe : beside that it is in the sacred bookes of Genesis so often repeated, *Vespere & mane dies unus*, The euening and morning were made one day. Truly I commend many things in *Gerardus Mercator* a most pure writer for the observation of time : but in that I cannot commend him, that he beginneith the yeare else where than of *Libra* ; whereas we haue by most certaine reasons not onely out of the most auncient customes of almost all nations ; but also out of the most pure fountains of sacred scriptures, declared the yeare to haue taken beginning in *Autumne*. Which we will againe show by the great and notable changes of estates and Commonweales : whereby things to come may be the better and more certainly perceiued, and the greatest chaunces, alterations, and changes, seene to haue happened about *Autumne*, that is to say, a little before, or a little after the *Autumnall equinoctiall* in *September*, the Sun then entring into *Libra* : where the law of God appointeth the beginning of the yeare. And first it is manifest, the generall deluge to haue begun and also ended in *Autumne*. We read also, the great earthquakes, wherewith oft times great cities, and whole countries haue bene destroyed, to haue happened in *Autumne*, such as was that trembling of the earth at *Constantinople*, wherein thirteene thousand men were lost in the yeare 1509, in the moneth of *September* : in which moneth, and in the same citie ; the earth againe grievously shooke in the yeare 1479. So also in the yeare of Christ 545 such an earthquake happened in *September*, that almost all Europe shooke therewith. The same moneth of *September*, wherein the battell was fought at *Actium*, ten thousand men perished in the land of *Palestine* with an earthquake. And not long agoe, *viz.* in the yeare 1526, and 27, in the moneth of *September* a great earthquake happened at *Putcoli*. The third day of the same moneth, in the yeare of our Lord 1556, such a tempest of raine and thunder happened at *Lucerne*, as that a greater (as is reported) was neuer seene : which selfe same month & day the towne hall at *Maidenburg* in *Germanie*, with the citifens dauncing therein, were all together with lightning consumed. The victorie of *Augustus* also against *Antonius* in the battaile at *Actium*, was by him obtained the second of *September*, where question was of the greatest empire that euer was, and the matter tried with the greatest forces that euer were assembled in any wars whatsoeuer : by which victorie the empire both of the East and of the West, fell into the power of *Augustus* himselfe alone. The third day of the same moneth the *Macedonian* empire, which had so long, and with so great glorie flourished, was by *Paulus Aemilius* changed from a great kingdome into diuers Popular estates, the king *Perseus* being by him ouercome and taken prisoner. *Sultan Soliman* on the like day tooke *Buda* the chiefe citie of *Hungarie*, with the greatest part of that kingdome. The same day and moneth *Rhoderike* king of *Spaine* was by the *Moore*s ouercome and chased out of his kingdome, which wrought a wonderfull change in the state of all that Monarchie. On the same day and moneth reuoluing, *Lewes* the twelfth the *French* king tooke the citie of *Milan*, with *Lewes Sfortia* duke thereof, whome he deprived of his estate. The like day the emperour *Charles* the fift passed ouer into *Affrike*, and inuaded the kingdom of *Algiers*. The day following, that is to say, the fourth of *September* *Sultan Soliman* died before *Sigeeth*, which being one of the strongest holds of *Christendome*, was by the *Turkes* taken the seventh day after. The ninth of *September*, in the yeare of our Lord 1544, *James* king of *Scots* was by the *English* men slaine, and his armie ouerthrowne. The same day in the reuolution of the yeare, the councill of *Possi* was gathered in *Fraunce*, *Charles* the ninth then raigning in the yeare 1561, and a decree made for the receiuing of the new religion, which raised most great troubles in *France*. The same day and moneth *Alexander* the Great at *Arbela* ouerthrew *Darius* king of *Persia*, with his armie of foure hundred thousand men; and so ioyned the king-

The greatest and most notable changes of estates and Commonweales to haue commonly hapned in the moneth of September.

dome of Persia vnto his owne. The tenth of September *John* duke of Burgundie, was by the commandement of *Charles* the seuenth slaine, wherof great wars arose throughout all Fraunce. The like day and moneth was *Peter Louys* the tyrant of Placence slaine by the conspiratours. We read also, that the eleuenth of September the Palæologues, the Greeke emperours tooke the imperiall citie of Constantinople, and draue out thence the earles of Flaunders, who had there possessed the empire 560 yeres. The fourteenth day of September the Swissers were with a great slaughter ouerthrowne by the French, in the expedition of Mirignan: which selfe same day also the Turkes great armie laïd siege to Vienna, the Metropolitically citie of Austria. The seuenteenth day the French armie was by the English ouerthrowne at Poitiers, and king *John* of France by them taken prisoner. Which day also, (or rather the like in the reuolution of the yeare) a peace was concluded at Saissons, betwixt *Francis* the first, the French king, & the emperour *Charles* the fift, being both readie with their great armies to haue fought for the kingdome, to the great hazard of both their estates, in the yeare 1544: a thing the more to be noted, for that the same yeare, moneth, and day, was also a great coniunction of the superior planets. The same day of the same moneth, in the yeare 1575 the Christian fleet with a great slaughter ouerthrew the Turkes great fleet in the battell of Lepanto. The eighteenth day of the same moneth Bouleine was deliuered vnto the Englishmen. And the foure and twentieth of September *Constantine* the Great, in a bloudie battell ouercame *Maxentius* the emperour, in the yeare of our Lord 333, and so of a simple straunge captaine made himselfe a great Monarch (which wrought a most notable and maruellous chaunge almost throughout the whole world) and so from thenceforth commaunded the account of the yeare to bee begun in September: and in the Greeke feasts vnto that day is added, ΙΝΑΙΚΤΙΟΝΟΝ, ΚΟΝΣΤΑΝΤΙΝΙΑΝΟΝ, ΕΝΤΕΤΘΕΝ, ΑΡΧΗ. Wee find also, that in the yeare 1136, in the moneth of September there was a great coniunction both of the superiour and inferiour planets, in so much that the Astrologers of the East, by their letters written from all patts (as saith the Cronicle of Saint *Denis*) threatned the world with great calamities, and the people with the chaunge of their estates, which afterwards indeed chaunced: howbeit that in that the author of the historie erred, that he saith, How that the same yeare there was an eclips of the Sun the eleuenth of Aprill, and another of the Moone the fift of the same moneth, a thing by nature impossible. It is also right memorable, that the seuenteenth day of September, in the yeare 1567 *Charles* the ninth the French king, was by his subiects assailed neere vnto Meaux, where by speedie flight, and the helpe of the Swissers he hardly with life, escaped the hands of the conspiratours: the which selfe same day, moneth, and yeare, *Henry* king of Sweden was by his rebellious subiects dispoiled of his estate, and cast in prison, where he yet remaineth, without any great hope to be euer with life from thence againe deliuered. The battell Montcontour was fought also in September. And the eighteenth day of September *Baiazet* at Nicopolis with a notable ouerthrow defeated a great armie of the Christians, of three hundred thousand men. And the same day *Saladin* tooke the citie of Hierusalem, on which *Pompey* had before taken it. Pope *Boniface* the eight also was in September 1393 by the French taken prisoner, and deprived of his papall dignitie. We read also many the greatest princes and monarches of the world, to haue as this moneth died: as namely the great emperour *Augustus*, *Tiberius*, *Vespasian*, *Titus*, *Domitian*, *Aurelianus*, *Theodosius* the Great, *Valentinianus*, *Gratianus*, *Basilus*, *Constantine* the fift, *Leo* the fourth, *Rodolphe*, *Frederike* the fourth, *Charles* the fift, all Roman or Greeke emperours. And of the French kings, *Pipin*, *Lewes* the younger, *Philip* the third, *Charles* the fift surnamed the Wise, and *Lewes* his kinsman king of Hungaria and Polonia, with other most

- A** most noble and famous Monarkes in number infinite. But that is worth the marking that *Lothaire* and *Charles* the bauld, the one the king of Fraunce, and the other the German Emperour (and both of them the sonnes of *Lewes* the deuout emperour) both dyed the xxix of September, the first of them in the yeare 855, and the other 877. So *Charles* the fift, and *Sultan Solymán*, two of the greatest Emperours that were these many ages, were both borne in one yeare, and so both also in one moneth dyed, *viz.* in September. *Antonius Pius* also and *Francis* the first the French king, both of them great & famous Monarques, were both borne in September, and died both in March the moneth opposite to September. *Octavius Augustus* was also borne in September, and so likewise in the same moneth of September dyed. Whereby it is to be vnder-
- B** stood, Autumne and especially that moneth wherein the world was created, *viz.* September, in a sort to carie as a marke therof the notable chaunces of many the most noble and renowned Princes, as also the straunge chaunges which haue happened aswell vnto the whole world, as vnto particullar Estates and Commonweales. The next conuersions and chaunges of cities and Commonweales we see to happen into the signe of Aries, which is an other period of the Sunne, and the third and fourth sort of chaunges to fall out about the Winter or Sommer Solstitium, or farthest staves of the Sunne: not for that the creation of the world is to be deriued from Aries, but for the notable periods of the Sunne in those times: Wherefore *Leonicus* following the dreames of vnskillful men, ought not to refer the creation and destruction of the world
- C** vnto the moneth of March; and much lesse to threaten vnto the world euen a present consummation and end. But he the same man had before by his writings promised vnto *Maximilian* the Emperour the soueraigntie of all Europe, with power to correct and chastice the crueltie and tirannie of other Princes (for so he writeth) of whom for all that it becometh him to haue more modestly writ: But *Maximilian* was so farre from the soueraigntie which he had in his vaine hope conceiued, as that he yet liuing, and with the German hoast also looking on: *Sultan Solymán* without any empeachment hauing farre and wide wasted the borders of the Empire, besieged and forced *Sigeth* the strongest place of the Empire, yea of all Europe: showing well that he should not haue too far assured himselfe vpon the prophecie of *Luther*, who hath left
- D** in writing that the power of the Turkes should from thenceforth diminish, which yet more encrease than euer it did. But it is straunge that *Leonicus* saw nothing of the straunge chaunge of the three kingdomes his next neighbours: which sith he saw not, how could he haue such certain knowledge of the end of the world, neuer as yet vnto the Angels themselues reuealed? For all which he bringeth no other reason, but that the Christian religion must together with the world take end in the waterie triplicitie, for that Christ Iesus himselfe was borne vnder the waterie triplicitie; willing as should seeme to bring in an other deluge: Wherein he sheweth no lesse impietie then ignorance, whether we respect the maximes of the Astrologers, who affirme and say that
- E** neuer planet ruinateth his owne house, which should yet happen vnto Iupiter being in Pisces. (For certain it is in the signe Pisces in the great coniunction in the yeare 1583 and 84, and that the coniunction of these two planets in that Signe is alwaies friendly:) or that we follow the opinion of *Plato*, and of the Hebrewes, and of all other Philosophers, who generally say, That the world is to be successiue destroyed first by water, and then againe by fire: or else that we rest our selues (as indeed we ought) vpon the promises of God, who cannot lye, which he in mercie made to *Noah* neuer to drowne the world againe. But as we ought not rashly certainly to affirme any thing of the chaunges and ruines of Monarchies and Commonweales: So can we not denie but that the effects are right great and wonderfull in the coniunction

What times of the yeare the notable chaunces and chaunges of the world must commonly happen in.

Leonicus taxed.

Great and marvellous effects wrought by the coniunction of the superiour Planets.

of the higher planets, when they chaunge the triplicitie, and especially when the three A
superiour planets are in coniunction together: or that such their coniunction haue concurrence with the eclipses of the Sunne or of the Moone: as it happened the day before the taking of *Perseus* king of Macedon, and the battell of *Arbella* in Chaldea, which drew after them the ruine of two great Monarches, and the chaunge of diuers Commonweales, there appeared two most great and darke eclipses of the Moone. As there did also in the beginning of the Peloponesian warre, wherewith all Grecia was on a fire, the Sunne vpon a faire day was wonderfully darkened, euen at such time as *Pericles* the Athenian Generall began to set saile.

But as for them which contemne the force of the heauenly starres, or els are altogether ignorant thereof; they stand as men amased, to see in the same instant such conuersions and chaunges of Commonweales, and such great and turbulent motions of the people together and at once raised. As namely *Polybius* (himselfe an Atheist) in his historie exceedingly maruellet, That in the hundred and thirtieth Olympiade in one selfe same time there was scene vpon the sudden a new chaunge of princes almost throughout the whole world. As namely *Philip* the younger to become king of Macedon, *Achens* to be king of Asia, which he vsurped vpon *Antiochus*, *Ptolomeus Philopater* to become king of Ægypt, *Lycurgus* the younger, king of Lacedemonia, *Antiochus* king of Syria, *Hanniball* generall of the Carthaginensians: and all these people as it were at the same instant vp in armes one of them against another; the Carthaginensians against the Romans, *Ptolomey* against *Antiochus*, the Achæans and Macedonians, against the Aetolians and Lacedemonians. And afterward also three of the most famous generals of the world, namely *Scipio Affricanus*, *Hannibal*, and *Philopemenes*, to haue all died (as *Liuius* writeth) in one yeare. These great chaunges are more euident to be scene after the coniunction of the two superiour planets, with the Sunne, or *Mars*: as it happened in the yeare 1564, that the superiour planets were in coniunction in the signe Leo, together with the Sunne & *Mercurie*: So haue we afterwards scene strange motions and stutres almost all Europe ouer. We haue scene in the same time, in the same yeare, in the same moneth, in the same day, viz, the twentie seuenth of September, in the yeare 1567, the French king guarded with the Swissers, assailed and in daunger to haue bene taken by his subiects: and *Henrie* king of Sweden dispoyled of his estate, and by his owne subiects cast in prison: and euen as it were at the same time *Mary* the most noble queene of the Scots spoiled of her kingdome by her subiects, and by them imprisoned, by whome it befieemed her to haue bene deliuered: and the king of Thunes drinen out of his kingdome by the king of Algiers: the Arabians vp in armes against the Turkes, the Moores of Granado and the Flemings against the king Catholike, the Englishmen against their queene, and all Fraunce in combustion. The same coniunction of the three superiour planets happened also an hundred yeares before, viz, in the yeare 1464, but not so precisely, neither in the signe of Leo, but onely in the signe of Pisces, and yet by and by after all the people were scene vp in armes, and not onely the princes among themselues, but the subiects also against their princes, as we haue before said. G I K

The opinion of Copernicus concerning the motion & influence of the earth, refuted.

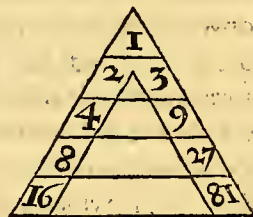
Now as for that which *Copernicus* (the great Astrologer of his time) saith, The chaunges and ruines of kingdomes and Commonweales, to depend of the Eccentrique motion of the earth, it is such, as that it deserueth no aunswere or account to bee thereof made. For that he for the ground thereof supposeth two things most absurd: the one That the influences which all Philosophers attribute vnto the starres, proceed from the earth, and not from the heauens: the other, That the earth it selfe moueth with the same motions, which all the Astrologers of former times (except *Endoxus*) haue alwaies giuen

- A** giuen vnto the heauens. And yet mote straunge it is to make the Sunne immouable and the center of the world; and the earth fiftie thousand leagues distant from the center, and to make part of the heauens, & of the planets, to be mouable, and part of them immouable. Which old opinion of *Eudoxus*, *Ptolomey* hath by probable arguments and reasons refuted. Whereunto *Copernicus* hath well answered: vnto whome *Melanchthon* hath onely with this verse right well replied, *God in the heauens hath a tabernacle for the Sunne, which commeth out as a bridegroom out of his chamber, and reioyceth as a Giant to runne his course. It goeth out from the uttermost part of the heauen, and runneth about to the end of it againe: and there is nothing hid from the heat thereof.* So also might he say, That *Iosua* commaunded the Sunne and Moone to stay their course.
- B** But vnto all this might be answered, That the Scripture oftentimes accommodateth and fitteth it selfe vnto our weake senses: as when it calleth the Moone the greatest light next vnto the Sunne, which yet neuerthelesse is the least of all the starres except *Mercurie*. But this doctrine of *Copernicus* might by a manifest demonstration, which no man hath yet vsed, easily be refelled, *viz.* that one simple bodie hath but one simple motion proper vnto the same: as is manifestly to be proued by the principles of naturall Philosophie: then seeing that the earth is one of the simple bodies, as the other elements be, we must necessarily conclude, that it cannot haue but one onely motion proper vnto it selfe: and yet for all that *Copernicus* hath assigned vnto it three diuers motions: whereof it can haue but one proper vnto it selfe, so that the other must needs be violent, a thing altogether impossible: and so by the same consequence impossible also, that the alterations and chaunges of Commonweales, should proceed from the Eccentrique motion of the earth.

But let vs now come vnto the opinion of *Plato*, who thought the chaunges and ruines of Commonweales to ensue, when as the consent of the sweetnesse which proceedeth from the harmonie thereof is interrupted and broken. Which chaunceth when in the nuptiall number (as he tearmeth it) you depart farthest from those concords which the Musitions call *διὰ τεσσαράων* and *διὰ πέντε*. As for the nuptiall number he defineth it to be, that number which beginning of an vnitie, as of a mayden inuiolate is diuided in a double or triple sort of consent, in such sort as that the male, that is to say the odd numbers shall in continuare order be placed on the right hand, and the female, that is to say, the euen numbers on the left hand in this sort and order. As for the middle places they are to be filled with numbers perfect, imperfect, quadrate, spherique, and cubique, so that no sort of numbers be wanting. But this order of numbers may be infinite, for that the force and power of tune and consent, is in diuision as infinite, as any other dimension whatsoever. So that the forme of a well ordered Commonweale shall so long be firme and sure, as it shall keepe right consent

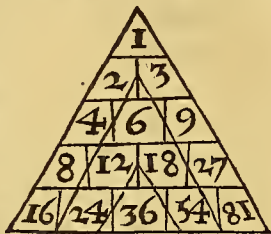
The most darke and obscure opinion of *Plato* concerning the chaunges and ruines of Commonweales.

- D** and tune, well agreeing vnto the sweet delite of the eare. The Dupla or Diapason, which is of one to two; the Sesquialtera, which is the proportion of two to three, which maketh *διὰ πέντε* or a fift; the Sesquitercia or proportion of three to foure, which maketh *διὰ τεσσαράων* or a fourth. The Tripla porportion which maketh *διὰ πέντε καὶ διὰ πᾶσιν*, which for that it comprehendeth all concords and consents is called *σύνμα*, or a gathering of all together. Now if you go farther as vnto that proportion which is of foure to nine, the proportion of these numbers being not harmonically, their followeth thereof an vnpleasant discord, which marreth the whole harmonie of a Commonweale. And this in mine opinion is that which *Plato* would say, for no man as yet hath explained this point; so that antiquitie it selfe hath not without cause



Nothing more
obscure than the
Platonical num-
bers.

cause long since complained, nothing to be more obscure than the Platonical numbers. For *Forrester* the Germaine is farre from the mind of *Plato*, when as he seeketh after triple and quadruple proportions, for that in so doing he ouerthroweth the foundations of the nuptiall number & the sides of the Triangle, which consist of the double and triple proportion. But in him is also absurd, that he thinketh the same proportion to be betwixt 27. and 64. which is of three to foure, a thing by nature impossible, and contrarie to the grounds of the *Mathematiques*. But *Plato* willeth vs also to fill the vacant place of the propounded triangle of the nuptiall number with such other numbers as proportionally arise of the mutuall coniunction of the male and female numbers, yet still continuing the harmonie, for that the same concords are amongst them to be found, which we haue already set downe amongst the other foure first numbers: as of the marriage of two to three: viz. of two times three is begot the number of six, which placed in the middest filleth vp the emptie place betwixt 4. and 9, which two numbers by no meanes make any consent or harmonie, but the proportion of either of them vnto sixe, is the same which is of three to foure, that is to say, Sesquialtera or *διὰ πέντε*, or a fift. And so also if the number of two be as it were married or in proportion ioyned vnto six, or the number of three, so combyned vnto six; as viz. two times six, or three times six, thereof shall arise two numbers, viz. 12. and 18, which shall fill the emptie space of the triangle betwixt 8. and 27. So if the number of two be proportionally ioyned vnto twelue, and the number of three to eightene (as viz. two times twelue, or three times eightene) thereof shall arise the numbers of 24. and of 54. And againe, if three be ioyned vnto twelue, or that which is all one, two to eightene, thereof ariseth the number of 36. which three proportionate numbers of 24. 36. and 54. shall fill vp the vacant place of the triangle betwixt 16. and 81, the mutuall proportion of which numbers so put into the void places of the triangle, and so filled with the numbers next, still keepe a perpetuall sweet course, although the sides of the triangle were infinitely extended, of which triange let this be the forme. If therefore choice be had of such proportions as make a sweet consent in the perpetuall course of numbers, the Commonwealth shall so be euermore lasting: if so be that the state of Commonweales depend of harmonie. But that harmonie (as saith *Plato*) is sometime broken, so that the sweet consent thereof must needs perish, and so Commonweales at length come to ruine and decay. But to say the truth, is it not much more to be feared, lest the subiects or citisens erring or declining from the sweet and naturall harmonie of well tuned lawes, and customes, shall in steed of them embrace most wicked and pernicious lawes and fashions? And yet for all that will I not denie but that harmonie and musike haue great force & power for the chaunging of a Commonweale, in which point both *Plato* and *Aristotle* well agree. Howbeit that *Cicero* is of opinion it to be a thing impossible, that for the musique of a Commonweal chaunged, the Commonweale should it selfe therefore take chaunge. Whereof for all that we haue a most memorable example, of the Commonweale of the Cynethenes in Arcadia, who hauing giuen ouer the pleasure of musique, shortly after fell into such sedition and ciuill warres, as wherein no kind of crueltie was forgotten, or not put in execution: whereat euery man marueling why this people was become so wilde and barbarous, seeing that all the rest of the people of Arcadia were wonderfull ciuill, courteous, and tractable: *Polybius* was the first which noted it so to haue happened, for that they had left to take pleasure and delight in musique; which from all antiquitie had bene alwaies more honored and esteemed in Arcadia than in any place



The true discord
which indeed ma-
ryeth the sweet
harmonie of a
Commonweale.

Musike to be of
great force, for
the chaunging
or maintaining
of a Common-
weale.

F

G

H

I

K

A of the world else, in such sort as that by the lawes and customes of that countrie every one was vpon great paines bound to exercise him selfe therein, vntill he was thirtie yeares old, which was the meane (as sayth *Polybius*) the first lawgiuers of that people wisely deuised, to quiet and tame them, being by nature rough and barbarous, as commonly all the inhabitants of the mountaines and cold countries be. The like we may almost also say of the French nation, whom *Iulian* the Apostata in his time calleth a barbarous and fierce people and of all others most desirous of libertie, who yet now at this day are in ciuilitie inferiour to no people of all Europe, none being more tractable vnto their magistrates or obedient vnto their Princes than they, as men by nature well, but by instruction better taught, and in the iudgement of all their neighbours most skilfull in Musike. **B** Wherein that is also worth the noting, that almost all the French songes & tunes (whetewith the countrie people are euen yet much delighted) are still Ionique or Lidian, that is to say, of the fift or seuenth tune. Which tunes *Plato* and *Aristotle* forbid the youth and women to vse: for that they be of great force and power to mollifie and effeminate the minds of men; and therefore would haue them to vse the Dorian tune, which our men call the first tune, to the intent that so they might be the better instructed with a certaine pleasant modestie, mixt with grauitie, a thing proper vnto this Dorian Musike. Which prohibition might haue serued better in the lesser Asia, where they haue no other songes but of the fift or seuenth tune; and namely in the countries of Lydia and Ionia: But the people of the cold and mountaine Northern countries, which are ordinarily more sauage or at least wise lesse courteous than the people of the South and the inhabitants of the plaine countries, can no way better tame and mollifie themselves than by vsing the Lydian and Ionique harmonie. Which kind of Musike was also forbidden in the primitiue Church; wherein it was not permitted to sing Psalmes or prayes vnto God but in the Dorian or first tune, which at this present is yet in the Church most in vse. But as men which would tame wilde and sauage beasts, disarm them first of their teeth and clawes; so the Lydian and Ionique harmonie disarmeth the more outrageous and barbarous people of their sauage and cruell nature, and maketh them quiet and tractable: As it is happened vnto the Frenchmen, who happely had not bene so pliant and obedient vnto the lawes and statutes of this kingdome, if the nature which *Iulian* the Emperour saith to haue bene in them so haucie and impatient of seruitude, had not by Musike bene attempered and mollified.

Musique most
honored in
Achadja.

Light musike
forbidden in the
primitiue church

E But of all those things which we haue yet brought to iudge of the future chaunges and ruines of Commonweales, we see no rule (whether it be of Astrologic or musike) certain and sure: howbeit that we haue by them some probable coniectures, whereof yet none seemeth vnto mee more certain or easie, than that which may be drawn from numbers. For why I thinke almightie God who with wonderfull wisdom hath so coupled together the nature of all things, and with certain their numbers, meanes, measures, and consent, bound together all things to come: to haue also within their certaine numbers so shut vp and enclosed Commonweales, as that after a certaine period of yeares once past, yet must they needes then perish and take end, although they vse neuer so good lawes and customes: as *Plato* with *Aristotle* therein agree. But when that period shall be, neither of them declareth: except some there be which suppose *Plato* to signifie it by certaine obscure numbers in his eight booke *De Republica*: at which rocke not onely all the *Academikes*, but euen almost all the sects of other Philosophers also, haue suffered shipwracke. And first of all *Aristotle* skippereth ouer this place as ouer a ditch, neither doth here carpe his maister (as his manner is) when as for the obscuritie thereof he had not wherefore he might reprove him.

Numbers to be of
great force, where-
by to deeme the
chaunge and rui-
ne of a Com-
monweale.

- A** not of *Plato* onely, but euen of *Aristotle* him selfe also; to the intent that so ha-
 uing cast a mist before his eyes aswell of the leaped as of the vnlearned, concerning
 the knowledge of most difficult things, and shut vp in the hidden secrets of nature;
 they might themselves become therefore the more admirable. Which thing we es-
 pecially note in the bookes of nature; which bookes *Aristotle* boasteth himselfe of
 purpose to haue so writ, as that he would not haue them to be vnderstood; imitating
 therein *Plato* his most obscure *Timæus*: Which thing *Lucilius* writ also of him selfe;
 that he had rather not to be at all vnderstood, then to be reprehended or found fault
 with all. But let vs discouer *Plato* his deceit by those things which he himselfe writeth
 more plainly, that we may more certainly iudge of those things which he fouldeth vp
 in such obscuritie of words: for he would that those things which take their beginning
 from God, should be contained within the perfect number. But what thing is there at
 length which oweth not the first beginning of the being thereof vnto almightie God;
 either immediatly without any other meane cause, or else some other the meane or
 middle causes comming betweene. And that God himselfe without any other
 meane cause created the Angels, and other the celestiall bodies not onely *Plato*, but
 euen the *Manichies* also themselves confesse; who yet most wickedly thought all
 earthly things to haue had their beginning from the prince of euils. True it is that the
 earth brought forth plants & other liuing creatures, the waters also fishes, and foules;
 yet both of them by the commaundement of almightie God: But vnto the creation of
 Man he would also haue the * Angels present. Howbeit that *Aristotle* was of opini-
 on the formes of all things to be in a sort diuinely infused into them, when as he writ
 in all things to be θεον τι, or some diuine thing. As for the mind of man he calleth it
 not obscurely or doubtfully but euen plainely *ἐκ τοῦ οὐρανοῦ*: which is (as I inter-
 pret it) *ἐκ τοῦ οὐρανοῦ, ἐκ τοῦ οὐρανοῦ, ἐκ τοῦ οὐρανοῦ*, from above, from God, or from heaven, not out of
 the power of the seed, as he saith of other liuing creatures: of whom for all that *Virgil*
 in generall saith: *Ignis est ollis vigor & celestis origo*, A fierie force they haue, and a
 celestiall beginning. Wherefore we must confesse all things to be included in perfect
 numbers if we will beleue *Plato*. But let vs graunt vnto the Academikes (which yet
 is an impietie to do) these earthly things which we speake of, to haue had their begin-
 ning else where then from almightie God, shall therefore the perfect numbers as better,
 be attributed vnto heauenly things? yea the perfect numbers should rather agree vnto
 earthly things, for that the perfect numbers how many soeuer they be are euen, and
 of the female kind, for otherwise they were not perfect: neither are more than * foure
 within an hundred thousand: there beeing also other perfect numbers * above that
 number of an hundred thousand, but such as cannot be applied either vnto diuine, or
 humane or worldlie things. Wherefore seeing that the number of six is the first of
 the perfect numbers, it ought by the opinion of *Plato* to agree vnto things immedi-
 ately by God himselfe created; and yet we see the same number neuertheless to agree
 vnto most vile and abiect liuing creatures. For *Aristotle* writeth the Hare (by the
 law of God an vncleane creature, & forbidden his holic people to eate of) to liue at the
 most but six yeares. The like number of yeares the same man attributeth also vnto
 Mice. And vnto certaine kinds of flies, as vnto walpes and Bees six yeares are by *Vir-
 gill* allotted, and their hives are still made six cornered; all which base creatures ex-
 cept the Hare are engendered of putrification. But as saith the Poet: *Numero Deus
 impare gaudet*, God delighteth in an odd number. And odd numbers are attributed
 vnto men: For that which *Seneca* writeth: *Septimus quisque annus ætati notam impræ-
 mit*, Euery seauenth yeare imprinteth some marke into age, is to be vnderstood onely
 of the male sexe: for experience sheweth vs euen vnto the view of the eye, that the

*Plato discovered
 and in some sort
 retuted.*

* *Facimus homi-
 nem: Or let
 vs make man.*

The foure perfect
 numbers within
 an hundred thou-
 sand, are 6. 496.
 628. and 8128.

Perfect numbers
 above an hun-
 dred thousand:
 130811,
 2096128,
 33550336,
 556814528.

Plato vainly to
attribute the per-
fect or euen
numbers vnto
heauenly things.

number of six maketh a chaunge, and leaueth a marke vnto the female kind: So that as men begin to feelee the heat of youth at fourteene yeares; women wax ripe at twelue, and so holding on from six to six, still so find in themselves some notable chaunge in the disposition either of their bodies, or of their mindes. All diuine Holydaies also are concluded in septenaries, or such other odd numbers. In many places also Diamonds grow by nature it selfe polished six square, as *Plinie* in his 33. booke reporteth, which in the mountaines of the Pyrenes is a common matter. Wherefore it is an absurd thing that *Plato* attributeth the beginning and ending of diuine things vnto perfect numbers onely. But *Porphyre* the most famous philosopher of his time, when he enterpreted that of *Plato* out of his *Timæus* τοῖς μὲν ἀθανάτοις ἐννακίχλια, writeth the estate of all Commonweales, and the life of spirits to be determined, at the farthest in the reuolution of a thousand yeares. *Plutarch* in his booke entituled *περί τῆς ἐν τῷ τιμαίῳ ψυχογονίας* suppoeth the life of Spirits to extend longer, but yet neither of them sought after the perfect numbers. But if so be that *Plato* in so great fewnesse of perfect numbers, could not tell which of them should agree to things sprung from a diuine beginning; by what numbers then should he discide so great varietie of worldly things: or if he knew that number, why did he pray and make vowes vnto the Muses that they would show him it.

The numbers of
seauen and nine
to be of great
force in the
chaunge of
worldly things.

* *Hippocrat. de
paris septimestri.*

The number of
sixe to be of
great power in
the female sexe,
and the number
of seauen in the
male kind.

Wherefore it behoueth a man of deeper consideration to seeke out such numbers as may signifie the conuersions & chaunges of worldly things, and which are by long experience, and not by light and vaine coniectures approued: such as I deeme the numbers of seauen and nine and their quadrate and cubike numbers: viz. 49, 81, 343, 729, to be. For as the number of six (which is of all perfect numbers the first) chaungeth the manners, habit, or nature of the Female kind, so most * auncient antiquitie hath by experience proued the number of seauen in some sort to chaunge the Male kind also: and that as the numbers of seauen or nine vse commonly to giue vnto men the beginning and time of their birth, that so the number growing of the multiplying of either of them, hath beene wont to bring vnto them their end and destruction. Which same thing I transfer and applie vnto Commonweales also, so that the numbers of seauen and nine, and such as arise of their quadrate and cubike numbers, do often times bring ruine and destruction vnto Commonweales. For that which we haue alleaged out of *Seneca* and *Censorius* euery seauenth yeare to imprint some marke into the age of man, and so the daungers of mens liues & substance to happen still vpon their seauenth yeares: vnderstand that to belong especially vnto men. Of which mine opinion I haue vse and experience the authour: For it is euery sixt yeare which leaueth a most certaine note of it selfe vnto women. And first to begin withall the strength of bodie and of mind is increased in them the sixt yeare, or else therein they die: the twelst yeare they begin to wax warme, and the eighteenth yeare are ready for husbands: and if diseases fall vpon them in their sixt yeares, they are so often times in daunger: The like whereof happeneth vnto men the seauenth, the fourteenth, and one and twentieth yeare: So that *Plato* not without cause attributeth the euen numbers vnto the female sexe, and the odd numbers vnto the male. And for this cause *Plutarch* saith, The auncient Romans to haue vsed to giue name vnto their male children the ninth day, for that the seauenth was more daungerous, and vnto their female children or daughters the eight day: for that (as saith he) the euen number is proper vnto the female sexe: And therefore I suppose them of old time to haue vsed euery eight day to do sacrifice vnto Neptune, for that the element of water agreeth vnto women, as doth the fire element vnto men: As also that they thought the number of seauen to be feared. Howbeit that the law of God commaundeth the male children to be

A to be circumcised the eight day: which the sacred interpreters of the Hebrewes thinke to haue bene done, that so there might be one Sabaoth betwixt the birth of the child and the circumcision thereof, and so more strength might thereby be giuen vnto the child. For why, *Moses* doth in sacred writ teach vs, God most plentifully to blesse the Seauenth day (which was the birth day of the world) with his grace and all other good things: which aboundance and stoare of his good blessings is no where seene to be giuen vnto the rest of the other dayes, by a certaine wonderfull cause of nature from all Philosophers hidden.

The seuenth day of all others most blessed.

Yet nothing seemeth in mans nature more wonderfull than that the yeare three score threē hath bene still noted to be vnto almost all old men fatall, *Observandum est* (saith *Au. Gellius*) *in multa hominum memoria, expertumque in senioribus plerisque omnibus sexagesimum tertium vite annum cum periculo & clade aliqua venire, aut corporis morbis grauioris, aut vite interitus, aut animi egritudinis*; It is a thing obserued (sayeth hee) in the great remembrance of men, and also by experience proued in many old men, The threescore and third yeare of their age to come vnto them all with some danger and hurt, either of the body, or of some great discale, or of losse of life, or of some tormenting griefe of mind. Yea there is an epistle of *Augustus* the emperour vnto his nephew *Caius*, bearing date the ninth of the Calends of October, written to the same purpose, in this sort, *Aue mi Cai, meus ocellus iucundissimus, quem semper medius fidius desidero quia a me abes: sed præcipue diebus talibus qualis est hodiernus: oculi mei requirunt meum Caium: quem ubicumq; & hoc die fuisse spero latum & bene valentem celebrasse quartum & sexagesimum natalem meum: nam ut vides κλαμακτῆρα κομμινὲν seniorum omnium tertium & sexagesimum euasimus*, &c. All haile my *Caius* (sayth he) my most sweet delight, whom of my faith I alwaies long for when thou art from me, but especially on such daies as this is mine eyes doe now seeke after my *Caius*, whome wherefoeuer thou hast this day bene, I hope that thou merrie and in good health, hast celebrated my threescore & fourth birth day: for as you see we haue escaped the threescore and third yeare, the common Climaeteriall yeare of all old men, &c. Howbeit that *Augustus* liued vntill he was seuentie seuen yeares old; as did also *Pomponius Atticus*, who died at that age. We might reckon vp an infinit number not only of the poore and baser sort, but euen of the nobler sort also, who ended their daies in the threescore and third yeare of their age: but we will onely reckon vp some such as were for their learning famous, who as at that age died, viz. *Aristotle*, *Cicero*, *Crysippus*, *S. Bernard*, *Boccace*, *Erasmus*, *Luthar*, *Melancthon*, *Siluius*, *Alexander Imoleus*, the most famous lawier of his time, *Cardinall Cusan*, *Linacre*, and *Sturmius*: And therfore the old Greeke diuines seeme to haue consecrated the number of seauen vnto *Apollo*, and of nine vnto the Muses, as *Plutarque* writeth.

The climaeteriall yeare of 63; most commonly fatall vnto old men.

Great learned men which dyed at the 93. yeare of their age.

E Now if any man will more curiously search out these things, whether it be in the sacred or profane histories, he shal find the liues of men for the most part to haue expired and taken end still in the seauenth or ninth yeares of their age: and women in the sixt. *Plato* is said to haue died at the age of fourscore and one, which is nine times nine yeares: *Theophrastus* at 84, which are twelue times seauen yeares, which period few men passe; or els they passe to xiii times seauen, as did *S. Hierom* and *Isocrates*, who liued 91 yeares. *Plinie*, *Bartholus*, and *Cesar* liued fiftie sixe yeares, which is eight times seauen yeares: *Lamech* liued 777 yeares, and *Methusala* (who of all others liued the longest) 970 yeares: *Abraham* liued an hundred seauentie and fve yeares, which are fve and twentie times seauen yeares: *Jacob* 147 yeares, which are xxi septinaries, or spaces of seauen yerres: *Isaac* liued 190 yeares, which make xx times nine yeares: *Dauid* liued seauentie yeares, which make ten times seauen yeares. An infinit thing it were

The seauenth and ninth yeares still dangerous or fatall vnto old men; and the sixt yeare vnto women.

to reckon vp all which are in histories found to haue ended their daies at these afore-
 said periods of seauens and nines. He also who of our auncestors and of histories is cal-
 led *Ioannes de temporibus* liued 361 yeares, that is to say three and fiftie times seauen
 yeares. It is manifest also men to be alwaies borne in the ninth or seauenth moneth:
 whom the Græks therefore call *ἐβδωμηνῆς* and that they which are borne either soo-
 ner or later liue not. For which cause *Hippocrates* writeth a child to be fully made and
 perfected in all the parts and limbs thereof the seauenth day: and afterward to take
 encrease: and being borne the seauenth moneth to liue: but none to haue liued being
 borne in the eighth moneth: a child also in the seuenth yeare to haue all the teeth, and
 that men (as *Plinie* writeth it to haue bene euen from the farthest memorie of men ob-
 serued) hauing bene kept from meat seuen dayes, albeit they may liue longer, shall yet
 neuerthelesse at length die thereof. The law of God hath most religiously also both
 consecrated and commaunded, the seuenth day to be kept holy, as the birth day of
 the world, and of all that therein is: which one day of all others God almightie blessed,
 and which day all antiquitie hath by long experience reported to be so vnlike the other
 daies of the weeke, as that it is taken vp as an old prouerbe, No seuenth day to passe
 wherein the sunne is not at one time or other therein to be scene. Vpon which day the
 auntient Hebrewes constantly affirme, The rage of diuels to be restrained, wisdom
 to be into the minds of men infused, their bodies to be strengthened, and their fields
 with encrease of fruit to be blessed. The seuenth yeare also is by the law of God holy,
 as is also the seuenth time seuen yeare, which is the yeare of *Iubilie*: neither is it to be
 doubted, but that a certaine secret force is in them, both for the chaunge and ruine of
 Commonweales. So that it ought not to seeme straunge, if that this number of seuen
 be of the Hebrewes called sacred or holy: which *Caluin* (following *Galen*, as I suppose)
 calleth Perfect (where he entreateth of the rest of the Sabboth day) which hee euen to
 astonishment woundereth to be so often and so religiously propounded, to bee of all
 men obserued and kept, in so much that euen the paine of death is propounded vnto
 the breakers thereof: so that the whole summe of all God his lawes may seeme to bee
 therein contained: yet is not therefore the number of seauen a number perfect, for that
 it is odd and masculine: whereas all perfect numbers are euen and feminine. For why,
 the Mathematicians define that to be perfect, which may bee diuided into the same
 whole parts, whereof it is made, so that in such diuision nothing be wanting or super-
 fluous. As 1, 2, 3, make sixe: which three numbers do also equally diuide sixe into
 equall parts, as it was of them made, as it is in other perfect numbers also. *Lactantius*
 in the same errour offended, who calleth the number of three and ten, perfect and full
 numbers: and also *Cicero*, who deceiued many, in calling the numbers of seuen and
 eightfull numbers; which *Macrobius* vnderstandeth to bee solide, and others to bee
 perfect numbers: neither of which can truly bee said of the number of seuen: as for
 the number of eight it is indeed a solide, but not therefore a perfect number. With
 like errour is *Plutarch* himselfe deceiued, who writeth, Three to be a number perfect:
 howbeit that *Aristotle* deemeth the force of that number to be of great force in the
 whole course of nature. *Philo* was herein also deceiued, in taking ten to bee the most
 perfect number.

Now indeed there are but foure perfect numbers from one vnto an hundred thou-
 sand, viz. 6, 28, 496, and 8128, amongst which the last cannot serue for the changing
 of Commonweales, for that it exceedeth the age of the world: neither the two first,
 for that they are too little: so that but one of them can be well applied vnto the chaun-
 ges of cities and Commonweales, viz. the number of * 496, which is made of seuentie
 septenaries of yeares, and a perfect number: it being also a thing by most auntient anti-
 quitie

The sabboth or
 Seauenth day of
 all other daies
 the most blessed,

What a perfect
 number is?

* In lib. de opposi-
 tio Dei.

In semio scipio-
 nis.

But four perfect
 numbers from
 one to an hun-
 dred thousand.
 * The number
 496, the onely
 perfect number
 which can well
 bee applied vnto
 the changes of
 cities and Com-
 monweales.

- A** quitie obserued, All cities in the reuolution of fūe hundred yeares, to suffer either some great change, or else some vtter ruine. But these numbers touching the chaunge or ruine of cities and Commonweales, may be two wayes applyed, *viṛ.* vnto the princes themselves, or els vnto the continuance of their kingdomes and empires. As if a man should say, This kingdome of Fraunce to fall and take end, after that threescore and three kings had therein raigned, this number consisting of the numbers of seuen and nine, conuerted in themselves. As *Esaías*, who liuing in the time of *Romulus*, prophesied, That nine kings should more yet raigne in Iudea, and that the tenth should together with the people be led away into captiuitie, and so that kingdome to take end: As also that there should be nine kings of the Persians, or as that the seuenth king of the
- B** Romans should be thrust out of his kingdom: which number of princes well agreeth with the number of the yeares which they raigned in Iurie, *viṛ.* 182, a number consisting of six & twenty septenaries: & at Rome 244, for in the 75 septenarie, that is to say, in the 245 yere *Tarquin* the proud, last king of Rome, was thrust out of his kingdome. *Hieremie* the Prophet then liued, when as the prophesie of *Esaý* was fulfilled, and himselfe prophesied, That the people should be againe deliuered in the seuentie yeare of their captiuitie, as indeed they were, and the temple againe restored. The same Prophet * *Esaías* prophesied also, The most famous citie of Tyre to be in 70 yeres after vnpeo-
- C** to be againe restored. The same number agreeth vnto the Athenian Commonweale, wherein seauen princes, whome they call *Δυνασταις*, raigned also 70 yeres: the taking of which citie, and the victorie of the Athenians at Salamine, is reported to haue happened vpon the verie like day. As for the number which of the Academikes is called *fatalis numerus*, or a Fatall number, *viṛ.* 1728 (being indeed a quadrat number) seemeth to haue bene expired from the raigne of *Ninus* vnto the victorie of *Alexander* the Great, at Arbela, and the ouerthrow of the Persian empire. For *Herodotus*, *Diodorus*, *Trogus Pompeius*, *Iustin*, and *Ctesias*, begin that empire from *Ninus*. And at such time as Hierusalem ouerwhelmed with most bitter calamities, was won and rased, the temple ouerthrowne, king *Sedechias* slaine, and the people carried away into captiuitie: at the selfe same time the Egyptians rebelled against the kings of Assyria, the Athenians shooke off the tyrannicall yoke of the *Pisistratides*, and the Romans expelled the proud *Tarquins*. Now the temple had before stood 427 yeares, a time consisting of whole septenaries. But for that in the computation of times, there is great difference amongst the Historiographers, we will vse the Roman Fasti or Calenders, which cannot lie. Wherein we see, that from the foundation of the citie, and of the Roman Commonweale vnto the battaile of Actium, wherein *Marcus Antonius* was by *Augustus* vanquished, and the whole empire brought vnder the power of one onely Monarch, and a generall peace established throughout the world, there are accounted 729 yeares, the solide number of nine. The same number of yeres passed from the conquest of the kingdome of the Lombards by *Charlemaigne*, vnto the conquest of the same countrey by *Lewes* the twelfth the French king, vpon the Venetians and the Sforces. The like number of yeares is accounted also from the ouerthrow of the kingdom of the Picts, and the great victorie of the Scots vnto the captiuitie of *Marie Steward* their queene. As also from *Egbert* king of the West Saxons (who hauing vanquished the East Saxons, made himselfe the sole Monarch of England, and called the people Englishmen) vnto queene *Marie*, who was the first woman that tooke vpon her the soueraignie of that people in fourteene hundred and fortie yeares space. So from the raigne of *Augustus*, after the victorie by him obtained at Actium, and the temple of *Ianus* the fourth time shut vp, vnto *Augustus* the last of all the Roman emperors, slaine

The numbers of seuen and nine fatall vnto Commonweales.

* Chap. 24.

by *Odouacer* king of the Herules, and the empire possessed by the Gothes, there are accounted 496 yeares, which we said to be a perfect number, as consisting of seuentie septinaries; with the perfect number of six: For by the Fastis the yeare following *Odouacer* began to raigne. Wherein it is also worth the noting, that as the first emperor *Augustus* with wonderfull felicitie and wisdom, both established and encreased that so great a Monarchy, which he held more than fortie yeres: so *Augustulus* the last of the Roman emperours diminished both in name and soueraigntie, held that his empire scarce a whole yeare, which happened the tenth of the calends of September. As it happened to *Constantine* the Great, who established the seat of the empire at Constantinople: and to *Constantine* the last Christian emperour, there dispoyled of his estate, and slaine by *Mahomet* king of the Turkes, surnamed the Great. Now from the building of the citie vnto this *Augustulus*, are accounted 1225 yeares: which number consisteth of whole septinaries: which thing *Vectius* the great sooth-saier foretold, as *Censorinus* out of *Marcus Varro* writeth. The same number of yeares wee find from *Ninus* king of Assyria, vnto the death of *Sardanapalus*, whome *Arbages* gouernour of Media dispoyled of his gouernement, and translated the kingdome vnto the Medes. Now from *Saul* the first king of the elect people of God vnto that *Sedechias* was slain, and his kingdome ouerthrowne, returneth that perfect number of 496 yeres. But whereas *Iosephus* reporteth the burning of both the Temples, and the taking of the citie, to haue chaunced the selfesame day, viz. the ninth day of the first moneth; he in that agreeth not with the booke of the Kings, neither with the Prophecie of *Hieremy*, who both otherwise report the same. So many yeares, viz. 496. are accounted from *Caranus* first king of the Macedons, vnto *Alexander* the Great last king of that countrey, descended of the line and issue of *Hercules*, and of *Æacus*. Some there bee which adde certaine yeares moe, and some others which detract some alio. Wherefore my meaning is not to alleage any other than the records set downe by the most certaine Historiographers, and such as euery man may draw euen out of the verie fasts and calenders of the Romans themselves. Of which sort is that, that from the foundation of the citie of Rome, vnto the sacking thereof by the French men, are accounted 364 yeres, which number consisteth of whole septinaries: As also from the building of the citie, vnto the slaughter at Cannas, *Terentius Varro* being then Consul (at which time the Commonweale was fallen into extreame danger) are numbred 536 yeres, that is to say 77 septinaries of yeres: And from thence vnto the slaughter by the Romans, receiued from the Germans, vnder the conduct of *Quintilius Varro*, are passed 224 yeares, a number consisting of whole septenaries: both which ouerthrowes happened the second day of August, as is by the auntient Romans reported. Neither is that lesse memorable which *Tarapha* a most certaine Historiographer amongst the Spaniards reporteth, The Moores and Arabians to haue innaded Spaine in the yere of Christ 707, and that also the seuenth yeare of the raigne of king *Roderike*, and to haue holden the same kingdome 770 yeares, neither could vtterly be from thence againe expulsed, before the time of *Ferdinand* king of Arragon and Castile. It is also worth the noting, that from the execution of *Aman*, and the deliuerie of the Iewes at the intercession of *Hester*, vnto the victorie of *Iudas Machabews* against *Antiochus* the noble king of Syria and his lieutenant, there passed 343 yeares, which is the solid number of seuen, that is to say seuen times seuen septenaries: both which victories happened the thirteenth day of the moneth Adar, as the Hebrewes haue well noted. The same number of yeares passed from the time that *Octavianus* (hauing vanquished *Marcus Antonius*, and vnted the whole Roman empire vnder his owne obeysance) was by the Senat called *Augustus*, vnto *Constantine* the Great; a time notable for the straunge chaunces which then

The number perfect of 496 a number proper vnto the chaunces of Commonweales.

A then happened in the whole empire, as well in the lawes politique, as in matters of religion. *Tacitus* hath also noted in another singularity, That the citie of Rome was by *Nero* burnt, on the like day that it had long before beene burnt by the *Gauls*, which was the fourteenth of the calends of August: wherein some haue gone so farre, as to number how many yeares, moneths and dayes; passed betwixt both those fiets.

But that the numbers of six are almost vnto women fatall, I thought it not needfull by examples to proue, least I might be thought to stand vpon trifles, only that I note, that in the yeare 1582, at such time as the prince of Orange had receiued a mortall wound, the one and twentieth of March, being the fortie ninth yeare of his age, and that all men dispaired of his life, he yet recovered his health at his entrance into his fiftieth yeare: But *Carola Charlet* of Burbon his wife within two monethes after died, when as shee entred into the six and thirtieth yeare of her age, which is the quadrat of the number of six: euen as the prince her husband was wounded in the nine and fortieth yeare of his age, the quadrat of the septenarie or number of seven: which I thought not to haue written, but that I was told the same by the prince of Orange himselfe, as a thing by him noted, when as I was of counsell with *Francis* duke of Alanfon at Anwerpe.

But now for that we are by way of discourse come so farre, the last that remayneth is for me to aunswere some thing to them which take pleasure rather to carpe than to commend my writings: for that * I said I vnderstood not the prophecies of *Daniel* concerning the rising and ruine of Empires and kingdomes. For I doubt not but that if he (amongst others a most wise man) would in their due times haue plainly set downe such things as he by diuine inspiration had conceined and declared, all things then whereof we now doubt, should without all doubt be vnto vs most plaine and cleere. Truly he defineth the state of his owne citie, king *Cyrus* then beginning his raigne, what time the captiuitie was ended, according to * the prophetic of *Ieremie*, (which he beginneth from the destruction of the Citie and of the Temple, and not from the raigne of *Ioachim* as some suppose) and the holie people returned. He defineth it (I say) by seauentie weekes of yeares, that is by 490. yeares, and that right plainly; when as the prophetic was made in the last yeare of the captiuitie, which was the seauentieth from the destruction of the Citie and of the Temple: that so the prophecies might in good order with the prophecies, and times with times be continued: whereas they which longer protract the times leaue an hundred and twentie yeares at one gaping. But the Prophet expressly taught, that the beginning of the time ought to be accounted from the time of the prophetic giuen, wherein the people againe returned as if it had beene before dead, and appointed vnto it selfe a Prince and other magistrates, from whence the restoring of the Citie is to be accounted, and not from the repairing of the walles and buildings. In which case *Pompee* said well: *Vrbe deserta, in parietibus Rempubicam non consistere*, That the citie being forsaken, the Com-

E monweale consisted not in the walles thereof. But many * Historiographers from the time of *Cyrus* vnto the raigne of *Herode* the great (who hauing taken Hierusalem and slaine all the Senators together with the king himselfe, and spoiled the Iewes of their kingdome) do account 490. yeares. Others there be which reckon otherwise, and so great varietie and difference there is amongst them, as that all the opinions of all of them, may well be refelled, not onely by euery one of them a part, but euen by all of them together. As for those things which *Daniel* writ concerning the Empires, he openly and plainly hath called the Medes, the Persians, and Grecians vnto the Empire of Babylon; but besides them none. The fourth Empire (by him spoken of) we haue showed not to belong vnto the Romans, seeing that question is there concerning

The number of sixe to be vnto women fatall.

* In his booke: De Methodo historicarum.

* Hier. 25. Daniel 9.

A good discourse of Daniel his seauentie weekes.

* Iosephus, Functus, Mercator, Philo.

Babyion,

Babylon, which the Romans neuer subdued; which when they passing over the riuer Euphrates had vñfortunately attempted, they receiued many and great ouerthrowes of the most inuincible Parthians. But yet more foolishly do they who attribute that fourth Empire vnto the Germans, who neuer so much as dreamed of any the least part of the Babylonians Empire. Which things for that they be by vs else where disputed we will here let passe: Which things for all that *Frankbergerus* the Saxon and Bishop of Lipsic, by the authoritie of *Luther*, and one *Dresserus* a meere schoolman with rayling without any reason at all refelleth, whom I shall yet count an eloquent man, if he shall but learne aswell to speake, as he hath learned to speake euill: But for that the angrie man (a common fault of the wise) is angrie with me, for that I dare not rashly iudge of the diuine oracles, least in so doing I might offend in such his matters, and so farre from all mens senses: he should haue taught me why he thinketh the Prophet *Daniel* to haue there omitted fiftie empires, which I haue * noted to haue bin ten times greater than the German empire, and such as haue in them also contained a great part of the Babyionian empire? Why also *Daniel* in his first chapter hath writ of himselfe, That he liued in the first yeare of the raigne of *Cyrus* king of Persia? And yet more, why he should write himself to haue receiued that diuine oracle or prophesie in the * third yeare of the raigne of king *Cyrus*? And why in the chapter following doth he make mention of *Darius* king of Persia, who was inuested in that kingdome seuen and thirtie yeares after that *Cyrus* began to raigne? For neither *Berosus* a most true interpreter of the Chaldean antiquities, whome *Ctesias* and most of the auntient writers, haue followed: neither *Megasthenes* the Cronicler of the Persian affaires, neither *Herodotus*, called the Father of Historie, neither any of the Greeke or Hebrew historiographers, report any to haue bene before *Darius Hystaspes*: I except onely *Iosephus*, who in that place dissenteth from *Berosus*. But least we should seeme to deale to sharply, and to presse them too farre, What is the reason why *Daniel* in the eleuenth chapter of his prophesie writeth, That *Darius* should haue three Persians his successors and that the fourth should come out of Grecia, who by mightie force and strong hand should obtaine the empire? But that this was *Alexander* the Great no man doubteth, who thrust *Darius Codomanus* out of the Persian empite, whose father was *Darius Achos*, his grandfather *Darius Mnemon*, and his great grandfather *Darius Nothus*, vnto whome *Daniel* turneth his speech. Which if it be so, *Daniel* must needs haue liued two hundred and twentie yeares, if he were a youth growne when as hee was carried captiue into Chaldea, which he must needs be, for that hee then spoke both most eloquently and wisely. And thus much euerie man may most plainly gather both out of the sacred scriptures, and also out of the auntient histories of *Herodotus* and *Iosephus*. For *Cyrus* died in the 30 yeare of his raigne, *Cambyses* in the 6, *Darius Hystaspes* in the 37, *Xerxes* in the 21, *Artaxerxes* in the 44, *Darius Nothus* in the 19, *Darius Mnemon* in the 36, *Darius Achos* in the 26, *Darius Codomanus* in the 10, all making the summe of 228 yeares. For *Daniel* was taken prisoner together with king *Ioachim*. But let the interpreters of these diuine oracles suppose all things to bee manifest vnto them, and let euerie one of them with great confidence at their pleasure determine of these Daniels weekes. Yet how can these which euen most subtilly haue discussed all these matters, defend that of the Prophets *Zacharias* * and *Aggeus*, who writ their prophesies in the end of the seauentieth yeare of the captiuitie, *Darius Nothus* as they will haue it then raigning. This is now (say those Prophets) the seauentieth yeare. And if it be so that they will haue the seauentie yeares to be accounted not from the destruction of the Temple, but from the Ediēt of *Xerxes*, then truly *Zerubabel* and *Nehemiah* the chieftaines of the people must needs haue liued full two hundred and fiftie

* In methodo
hijter.

* Chap. x.

* Chap. 7.
* Chap. 23.

A fiftie yeares, being so old when *Cyrus* began his raigne, as that they were able to conduct the people out of Chaldea into the land of Palestine: whom yet the doubt not to proue euen by the testimonie of *Nehemiah* himselfe, him to haue liued euen to the last *Darius*. Wherefore all Historiographers are here much troubled and at great variance among themselues: one saying that there were but fise of these Persian kings: an other six: and others seauen: many eight: some nine: yea and some there be which haue deuised a tenth also. Truly *Genebrardus* in his *Chronologie* affirmeth there to haue bene of them onely fise: but *Functius* saith ten. Wherefore in so great rietie of opinions one of the two may be: as *viz.* that none of them all be true, the other can in no wise be, that moe of them then one should at all be true; and which

B of them it is I can not affirme: neither if I could would I. And in mine opinion I haue hereof more modestly than they written, that it was not a thing to me well knowne, vnto whom for all that I will yeeld, if they can by any meanes maintaine the certaintie of their owne positions. Howbeit that *S. Hierome* hath reiected many things which are found in the writings of *Daniel*: And that the Hebrewes allow not of the rest which are not writ in the Chaldee, but in the Greeke tongue by *Theodotion*.

Wherefore these examples thus propounded, it is lawfull by a certaine coniecturall gesing to ayme at the rising and falling of Commonweales: as also for a man looking into the precedent causes of things, with the diuers coniunctions and oppositions of the Planets, to go so farre as the knowledge of such things will beare: not rashly affirming, or lightly beleeuing any thing concerning such things as are by the Almighty and euer liuing God farre set from the sense and reach of man.

How it is lawfull for a man to gesse at the rising and falling of a Common wealth.

CHAP. III.

That it is a most dangerous thing at one and the selfe same time, to chaunge the forme, lawes, and customes of a Commonweale.



DOW Cities and Commonweales arise; by what meanes they are also encreased; what diuers alterations and chaunges befall euery one of them; and by what coniectures the fall and ruine of them is to be by vs gathered, I suppose we haue sufficiently before declared. But for asmuch as the presumptions by vs alreadie noted, are not sufficient to make any certaine demonstration of, but rest vpon such grounds as are farthest off from the senses and capacitie of the common sort of men: Neither that if they were deliueted by way of demonstration, or other more certaine rules, should they therefore inferre any necessitie at all? It remaineth that wee according to that wisdom and discretion wherewith almightie God hath of his goodnes endued men, endeouour our selues to rule Estates and Commonweales, and by all meanes to foresee and decline the chaunges and ruines of them. For why, it is one generall opinion and doctrine of all Philosophers, yea euen of them which idly dispute what is done in heauen: a wise man not to be bound or subiect vnto the power or influence of the starres: but onely they which giue the raines vnto their disordered appetites, and beastly desires, not suffering themselues to be gouerned by the rule of reason, or of other the best lawes: vnto whome *Salomon* the maister of wisdom hath sharply threatned the torment of the wheele, saying, That God should cause the wheele to passe ouer them: that is to say, the force and effect of the celestiaall Spheres, which ouer the good should haue no power at all. Seeing therefore that the power & influence of the starres may by the power of God, that is, by wisdom (by the gift and goodnesse of almightie God giuen vnto men) be auoided: and that wise physitions haue found the

meanes

Wise men not to be subiect vnto the power or influence of the starres, as sensual men be.

The ruine of a
Commonweale
to be by the wis-
dome of the go-
uernour preuen-
ted, or els war-
ning thereof to
be by him in due
time giuen vnto
his subiects.

Wisdome neuer
discouraged with
the daungers of
the Common-
weale: so long as
they see the state
wisely and dis-
creetly governed.

What opinion
wise men had of
the distressed es-
tate of the Ro-
maine Common-
weale: after the
great overthrowe
at Cannas.

meanes to chaunge the diseases, and to alter feuers contrarie vnto their naturall courses, to the intent the more easily to cure them, or at leastwise to asswage them; why should not the wise politician, or gouernour of a Commonweale, foreseeing the conuersions and chaunges which naturally happen vnto Commonweales, by good lawes and other conuenient remedies preuent the ruine therof: or if the force of the mischiefe be so great, and the destruction so certaine, as that it can by no wisdome of man bee preuented or staied, yet shall he performe that which cunning physicians doe, who by the Symptomes appearing vpon the criticall dayes, and by the causes of the disease, doe more certainlie and better guesse of the sicke mans death in what manner it shall bee: and so yet in good time giueth thereof warning vnto his ignorant subiects, lest that they should vpon the suddain be vnterly oppressed with the ruine of the falling Estate and Commonweale. And as the most skilfull Phisitions euen in the state of the disease, and the greatest griefe therof, doe yet put their patients in greater comfort, if the Symptomes, be good then if the griefe or fit without them were but easie and gentle; and as to the contrarie when they see a man in the highest degree of health that may be, they are then in the greatest feare, lest he should suddenly fall vnto some extreame sickness, as the great phisition *Hippocrates* saith: So also a wise gouernour of a Commonweale, seeing the state on all sides beset, and almost ouerwhelmed with enemies, yet if in so great daunger he otherwise see wise men sitting at the helme of the Commonweale, the subiects obedient vnto the Magistrats, and the Magistrats vnto the Lawes; he taketh courage thereat, and promiserh both vnto himselfe and others good successe; the ignorant people & cowards hauing in the meane time lost their patience, and lying as men plunged euen into the bothom of dispaire. In which state the Romaine commonweal stood after the third slaughter of their armie at Cannas, when as now many of the friendly and confederate cities, which before had continued in their fidelitie and allegiance, reuoluted from the Romaines, following the fortune and victories of *Hanniball*: For why almost all men now despaired of the estate of the Romaine Empire: at which time of distresse, of all others no man more hurt the Commonweale than did *Terentius Varro* the Consul, who with some few hauing escaped from so great a slaughter (as wherein threescore thousand of the citisens of Rome were slaine) writt letters vnto the Senat and people of Capua, That the Roman Commonweale was vndoone, as hauing in that battell lost all the force and flower thereof. Which thing so terrified them of Capua, (although in wealth and power they farre exceeded all the rest of the Roman confederates) that they not onely themselves forooke the Romans, but drew with them many of their allies and confederates also vnto *Hanniball*: when as in deed the Consul should haue extenuated the overthrow and losse receiued. Whereas *Scipio*, who was afterwards called *Africanus*, to the contrarie with comfortable speeches then cheered vp diuers of the citisens dispaire of the state of the Commonweale, and by oath constrained such as were about to haue abandoned the citie, to stay there still, and not to stirre, but resolutely to aduenture their liues for the defence of their countrie and Commonweale. Neither was the Senate terrified with the feare of so many daungers, as wherewith they were on euery side beset and inclosed, but rather seemed with greater wisdome to mannage the Estate than euer it did before. And albeit that the common people (according to their wonted lightnesse and foolish ignorance) almost in euery towne and city sung the praises of *Hanniball*, after his so many and so great victories ouer the Romans: Yet for all that, the Senat of euery citie fauoured the Romans: For so saith *Liuius*, *Vnus veluti morbus omnes Italiae populos inuaserat, ut plebs ab optimatibus dissentiret: Senatus Romanis faueret, plebs ad Pœnos rem traheret*, One disease as it were (saith he) had infected all

A all the people of Italie, *viz.* That the people still dissented from the nobilitie; the Senat still fauoured the Romanes; and the people still enclined vnto the Carthaginensians. Yea *Hiero* king of Siracusa, accounted the wisest prince of his age, did then much more carefully than before honour and reuerence the amitie and alliance of the Romaines, not doubting in what he could to helpe and relecue them; yea and in that their desperate estate amongst other things sent them a statue of Victorie (of gold) for a present; as he which had oftentimes proued the incredible wisdom of that Senat in the manning of their affaires. Wherein a man may see, that the wiser sort seeing the Romans so aduised and so constant in their extreme necessitie, and that their lawes were neuer more straightly kept, or martiall discipline more seuerely obserued, (as *Polybius* an eyewitnesse of those things, himselfe writeth) were alwaies of opinion that the issue of their affaires would be good: not vnlike the wise physition, who seeing fauourable Symptomes in the strongest fit of his patients disease, is yet still in good hope. Whereas Carthage to the contrarie proud of so many and so great victories, mistres of so many countries and nations, and placed in the height of all worldly felicitie, was neuer than then neerer vnto ruine and destruction: wherof were most certain tokens, for that in that Commonweale was no place left either for law or vertue, all things being done by the popular rage, or vnruely lust of the common people: so that it must needs shortly after be cast downe headlong from the highest degree of honour, and become subiect vnto the Romans, as not long after it did, *Scipio* beeing then their generall.

C Wherefore the first rule for the keeping and preserving of Commonweales in their estates, is well to know the nature of euery Commonweale, together with the diseases incident vnto them: whereof we haue more at large discoursed in the former Booke. For it is not enough to know which kind of Commonweale is better than other; but it behoueth vs also to know the meanes how to maintaine euerie one of them in their estate, if it be not in our power to chaunge the same, or that in chaunging thereof we shall put all to the hafard of vtter ruine and decay. For whie, it is better to haue an euill Commonweale than none at all: as with conuenient diet in some sort to preserve the sicke man, than by applying of medicines to an incurable disease so to take away his life quite. For as physicians say, we must neuer apply violent remedies but vnto desperat diseases; and that whenas there is now no other hope left. And this maxime taketh place in euerie sort of Commonweale, not onely for the changing of the estate, but euen for the changing of lawes, maners, and customes also: whereunto many hauing no regard haue ruinated and ouerthrowne right faire and great Commonweales, allured with the baite of some one or other good law, which they haue borrowed from some one Commonweale quite contrarie vnto their owne. For as we haue before shewed, many good lawes there be good for the maintenance of a Monarchie, and yet fit for to ruinate a Popular estate: as other also there bee good for the preservation of the Popular liberty, & yet most fitly seruing for the ouerthrow of a Monarchy: for that those Estates by nature contrary, are by quite contrary laws both maintained and ruinated.

E And albeit ihat some lawes there be good and indifferent to all sorts of Commonweales, yet so it is, that the antient question of right wise Politicians is not yet well resolved, *viz.* *Whether a new law being better, be to be preferred before an old antient law that is worse?* For the law be it neuer so good, is nothing worth if it carry with it a contempt of it selfe, or of the rest of the lawes: Now so it is, that newnesse in matter of lawes is alwayes contemptible, whereas to the contrary, the reuerence of antiquity is so great, as that it giueth strength enough vnto a law to cause it to be of it selfe obeyed,

The first rule for the keeping and preserving of Commonweales in their estates.

Violent remedies neuer to be vsed but in desperate diseases.

A notable question.

Antient lawes though worse still of greater esteeme and reuerence than the new though better.

Auntient lawes
concerning the
estate of a Com-
monweale not to
be without great
daunger altered.

The extreame
daunger he was
in, which moued
any new law a-
mongst the Lo-
crentians.

Lawes concer-
ning ordinarie
pollicie may of-
tentimes be
changed but not
lawes concer-
ning the estate.

without the authority of any Magistrat at all ioyned vnto it: whereas new edicts and lawes with all the threats and penalties annexed vnto them, and all that the Magistrats can do, cannot but with great difficulty find intertainment: in such sort, as that the fruit we are to receiue of a new edict or law, is not oft times so great, as the harme which the contempt of the rest of the lawes draweth after it for the nouelty of some one. And to make the matter short, there is nothing more difficult to handle, nor more doubtful in euent, nor more dangerous to mannage, than to bring in new decrees or lawes. And this reason seemeth vnto me very considerable, but yet I will set downe another of no lesse weight, which is, That all the change of laws concerning the estate is dangerous: For to chaunge the customes and lawes concerning inheritance, contracts, or seruitude from euill to good, is in some sort tollerable; but to chaunge the laws which concerne the estate, is as daungerous, as to remoue the foundation or corner stones which vphold the whole weight or burthen of the buildings; in which doing, the whole fabrike is to be sore shaken, and beside the daunger of falling, receiueth more hurt by the shaking thereof, than it doth good by the new reparation, especially if it bee now become old and ruinous. For euen so it is in a Commonweale now alreadie growne old, wherein if a man neuer so little remoue the foundations that vpholdeth the same, he is in great danger of the ruine thereof. For the auntient maxime of the most wise politicians ought wel to be waied, *That we must not change any thing in the laws of a Commonweale which hath long maintained it selfe in good estate, what soeuer apparent profit may be thereby pretended.* And for these causes the old law of the Athenians, which was afterward also receiued in Rome, and passed in force of a law, published at the request of *Publius Philo*, was the most necessitie law that could be in a Commonweale, *viz.* That it should not be lawfull for any person vpon paine of death to present any request vnto the people, without the priuie of the Senat. Which law is yet better kept in Venice than in any place of the world els, whereas it is not permitted so much as to present any request euen vnto the Senat, without the aduise of the councill of the Sages. And yet in the Commonweale of the Locrentians, this law was much straiter, Where he which would present any request, to haue it passe in force of a law, was constrained to moue it before the people with a rope about his neck, wherewith hee was there vpon the place to be strangled, if he preuailed not to proue the law by him moued to be good and profitable for the Commonweale. Which was the cause that this estate for a most long time stood and flourished, without any thing added or diminished to or from the most auntient laws and customes thereof, no man daring to propound any new law to passe, vntill that one of the citisens which had but one eie, made a request vnto the people, That he which wittingly should put out his eye which had but one, should therefore himselfe haue both his owne put out: For the making of which motion his aduersarie had giuen him cause, hauing oftentimes threatned him to thrust out his eye, and so to deprive him quite of his sight, although he were therefore to endure the penaltie of the law, which was to loose one of his owne. With the equitie, or rather necessitie of whose so reasonable a request the people moued (though with much a do) enacted the law. Whereby yet nothing was derogated from the law called *Lex talionis* (or the law of like punishment) which was then common to almost all nations: For why, it was reason that hee which had maliciously deprived another man of his sight, should himselfe be deprived of his owne sight also.

Now if any man should say, That many lawes must oft times of necessitie bee changed, as the lawes concerning victuals, or the bringing in, or carying out of marchandise, or concerning the augmenting or diminishing of the punishment to bee inflicted vpon offenders, which are euen in a short time to be chaunged; I therein agree with him,

- A** him, for that necessitie hath no law: first, if new lawes giue good hope of fruit and profit of them to arise, as of good corne yet in the blade, then are they not to be reiected: but here question is not of lawes concerning ordinarie policie, but of such as concerne the very estate it selfe. Which I both would and wish, if possibly it might be, that they should still be most firme and immutable: not for that the Commonweale ought to serue the laws, seeing that they are al made for the maintenance of the Commonweale, and of the societie of men: neither that any man witheth the safetie and preservation of the lawes, but for the Commonweales sake. For why, the first and chiefe law of all Commonweales, is this, *SALVS POPVLI SVPREMA LEX ESTO*, The welfare of the people, let that be the last law. For what reason moued *Themistocles* to fortifie the cite of Athens with walles and bulwarkes, even the verie same reason induced *Theramenes* to persuaue the Athenians to rase their walles, viz. the welfare of the people: whereas otherwise the Lacedemonians had vndone the citicens together with the cite. Wherefore no law is so sacred, but that vpon vrgent necessitie it is to be changed. And therefore *Solon* after he had published his lawes, caused the Athenians to sweare to obserue and keepe them for the space of one hundred yeare: giuing them thereby to vnderstand, that lawes could neuer be made immutable, neither were to be all at once together chaunged. *Lycurgus* also in like maner tooke an oath of the Lacedemonians his subiects, to keepe his lawes vntill his returne from the Oracle of *Apollo*, from whence he afterwards neuer returned, but went himselfe into voluntarie exile, out of his natieue countrey; so to bind his citicens so much as possible was to the perpetuall keeping of his lawes. And albeit that the iniquitie of some auntient law bee by right euident, yet is it better to endure it, vntill that it in time by little and little of it selfe loose the force, than vpon the sudden by violence to repeale it. For so did the Romans by many the lawes of the twelue tables, which they would not abrogat, but onely by not obseruing them, in that they were vnprofitable or vniust, suffered them so to grow out of vse: which they so did, least in abrogating of them, they might seeme to impaire the credit and authoritie of the rest of the same lawes. Yet after that they had by tract of time bene of long buried as it were in obliuion (which was seven hundred yeares after that they were first published) it was at the motion of *Æbutius* the Tribune, decreed,
- D** That such of those lawes as were as it were of themselues growne out of vse, should be reputed as repealed and abrogated, to the end that no man should with them yet standing in force be entangled.

The chiefe lawe of all Commonweales.

No lawe so sacred but that vpon vrgent necessitie it is to be chaunged.

Better to suffer euill lawes by little and little to growe out of vse, then vpon the sudden with daunger to abrogate them all at once.

- But for that the nature of man as of all other worldly things also, is most slipperie and vnconstant, running still headlong from good to euill, and from euill to worse; vices by little and little still encreasing, not vnlike vnto euill humors, which without sensible feeling encrease mans bodie, vntill it be full of them, breedeth in it many most dangerous diseases, and so at length bringeth it vnto vtter destruction. For remedie whereof new lawes must of necessitie be deuised: which must yet for all that by little and little be done, and not violently all at once. As *Agis* king of Lacedemonia vnwisely attempted to haue done: who desiring to reestablish in the Commonweale the auntient discipline of *Lycurgus*, now by the negligence of the magistrats almost grown quite out of vse, caused all the obligations and scedules of priuat men to be vppon a sudden brought out & burnt: which done, he was about to haue proceeded to the making of a new diuision of lands, to the end to haue so made an equalitie of wealth and goods amongst the citicens, as *Lycurgus* had before done: which although it were a thing desired of many in the Lacedemonian Commonweale (which had indeed so bene founded) yet so it was, that in making too much hast in the doing thereof, he not onely fell from his hope, but thereby kindled such a fire of sedition also, as burnt vp his whole

Neither are old lawes to be altogether sodenly without daunger abrogated: or newe lawes rashly established.

house, and so afterward dispoiled of his estate, and by his rebellious subiects together with his mother and other his friends and partakers strangled; made away for a sort of mad and euill minded fellowes to inuade the state, hauing so deprived his countrey of himsele a good and vertuous prince. Whereas he should before haue made himsele maister of the forces, or if that had not bene possible, yet to haue founded the minds of them of the geater sort, and by meanes to haue gained them vnto him one after another, as had *Lycurgus* done before him; and then to haue forbidden them the vse of gold and siluer, that so it might haue growne into as little estimation as iron: and in some time after that, to haue forbidden all sumptuousnesse in apparell, and rich furniture, and not at once to haue encroached vpon the libertie of the people, to haue proued their patience, and chaunged their discipline: For that to vse such a violent letting of blood, before the corrupt humors purged, or so strong a medicine, before any preparatiue giuen, is not the way to cure the diseases, but to kill the diseased. Wherefore in the governments of Commonweales, and healing the diseases thereof, we must imitat not the Physitians onely, but euen nature it selfe, or rather the great God of nature whom we see to do all things by little and little, and almost insensibly. The Venetians right wisely during the life of *Augustin Barbarin* their duke, attempted not in any thing to abridge his power, though by them much misliked and feared; least in so doing they should either haue offered some disgrace vnto him their prince, now growne old, or els haue raised some new sturres, and so haue troubled the quiet of their Commonweale. But he once dead, before they proceeded vnto the new election of *Loredan*, the seignorie caused such new lawes and decrees to be published, as whereby the power of the dukes was right greatly impeired and diminished. The same wee haue shewed also to haue bene done in the elections of the German emperours, the kings of Polonia, and of Denmarke, who of soueraigne Monarches are now brought vnto the small estates of Generals in chiefe, some of them more, and some lesse: which the more closely to hide, they haue left vnto them the imperiall and toiall markes and cognisances in their habits, in their titles and ceremonies, but in few things els in effect and deed.

Dangerous for a prince vpon the sudden to displace or caste off the anntient seruitor of his predecessours, or great magistrats of the estate.

But as it is a daungerous thing for the subiects all at once to abridge or cut short the power of a soueraigne prince or magistrat, who yet hath the power in his hand: so is it also no lesse daungerous for a prince vpon the sudden to displace or cast off the anntient seruitors of his predecessours, or els at once to thrust out some part of the great magistrats and officers of the estate, and to retaine the rest, they which are new chosen or retained, resting ouer charged with enuie, and the other with euill doing or ignorance, and withall deprived of the honour and good, which they haue bought full deere. And it may be that one of the fairest foundations of this monarchy is, that the king dying, the officers of the crowne continue still in their charge, who by that means still maintaine the Commonweale in the estate thereof. And albeit that the officers of the kings house be at the pleasure of the successeur to be chaunged, so ought hee yet therein to vse such discretion, as that they which are remoued haue not occasion to inuouat or moue any thing as men disgraced, or at leastwise haue no power left them so to doe, albeit that they were thereunto willing. In which point the emperour *Galba* being deceiued, and hauing thrust *Otho* out of the hope hee had conceiued of the empire, to adopt *Piso* to succeed him in the gouernment, and yet for all that without disarming of *Otho*, he was shortly after by the same *Otho* (a man in great fauor with the Pretorian souldiours) slaine together with *Piso*, whome he had before adopted to succeed him in the empire and gouernment of the state. All which perils and daungers are lesse to be feared in an Aristocratike or Popular estate, for that in them they which haue the soueraigntie neuer die; howbeit that there is in them no lesse danger in chaunging of their

- A** their ſoueraigne magiſtrats, or generals (as we haue before declared) or in making of lawes which may tend to the impairing of the power of the people, or which may any way ſeeme profitable vnto the nobilitie, and preiudiciall or hurtfull vnto the people: or in caſe that victuals and prouiſions faile, or that ſome great extreame dearth ariſe; in which caſes there is alwaies daunger of popular commotions and rebellions. So that in brieſe, when queſtion is for the diſplacing of great magiſtrats, or for the ſuppreſſing of corporations or colledges, or for the cutting ſhort of priuileges, or the augmenting of puniſhments, or for the reforming of diſorders amongſt the people, or for the calling of great men to account, or for the reducing of religion to the former courſe and beginning thereof; which by ſucceſſion of time, following the naturall corruption of man; hath bin altered & changed from the firſt puritie therof: there is no better means than to come thereunto by little and little, without forcing of any thing, if it were poſſible, as by way of ſuppreſſion. Whereof we haue a notable example of king *Charles* the fiſt (euen he that was ſurnamed the Wiſe) who at ſuch time as he was Regent in France (his father being as then priſoner in England) by the euill counsell of ſome, ignorant in matters of eſtate, at one chop ſuſpended all the officers in Fraunce, of whome alſo hee ſuppreſſed the greateſt part, appointing fiftie commiſſioners for the hearing of ſuch accuſations as ſhould be laid againſt them for the extortion and bribetrie by them committed and vled: whereupon all Fraunce was in ſuch tumult and vptore (for the infinite number that then were of male contents) as that ſhortly after for remedie thereof, hee by a decree in the high court of parliament at Paris, whereunto all the nobilitie were aſſembled, abrogated the former law. Which decree is yet extant in the act of that his court, to this effect and purpoſe, *Cum regie poteſtati & procuratori, quam gerimus, non modo que ab alijs, ſed etiam que a nobis ipsis & in Rempublicam, & in ſingulos peccantur emendare conſentaneum ſit, rebus plane perſpectis & cognitis, que de imperio magiſtratibus adempto noua lege inſimus, placet abrogari; ut quidem abrogamus, & aperte declaramus, legis illius, que importunis quorundam rogationibus erepta eſt, nullam vim fore, & que acta geſta ſunt, cum magno noſtro dolore acta geſta fuiſſe; nec illam magiſtratuam ac honorum abrogationem, quam non iure factam eſſe cenſitemur cuiquam fratri eſſe: aut cuiusquam ius ac dignitatem violare nos vlla ex parte voluiſſe: ac proinde legem illam iure a nobis reſcindi & abrogari teſtamur, ut omnibus magiſtratibus ſalua omnia & integra reſtituantur.* Whereas by the regall power and authoritie which we beare, it is fitting for vs to correct and amend, not onely ſuch things as by others, but euen by our ſelues alſo are treſpaſſed againſt the Commonweale, or other men in particular: all things thoroughly looked into, and tried, our pleaſure is, That what we haue by a new law commaunded concerning power and authoritie taken from the magiſtrats, to be againe abrogated, as indeed we abrogat, and plainly declare the force of that law (which was by the importunate ſuit of ſome wreſted from vs) to be nothing: and that ſuch things as were then done, to haue bene done to our great griefe: neither that that deprivation of offices or honours, which we confeſſe to haue bene not lawfully done, to bee imputed to any man: neither that our will was in any part to violat any mans right or honour: And therefore we freely proteſt, that new law to be of vs rightly repealed and abrogated: and that ſo all things ſafe and whole, may ſo againe bee vnto the magiſtrats reſtored. And thus much he. But *Charles* the ninth comming vnto the crowne, and ſeeing the number of officers through the libertie of the times growne almoſt infinite; to the great hurt of the Commonweale, in ſuch ſort, as that it ſeemed a thing almoſt neceſſarie to haue deprived them of their honours and fees, yet did he not ſo, for that it could not without great iniurie be done, when as the money they had before paid for them, could not by reaſon of the want of coine in the common treaſurie, bee againe repaid

All alterations of lawes or other great matters in a Commonweale are beſt to be made by little and little

The wiſe courſe taken of Charles the ix for the abating of the infinite number of officers in the Commonweale.

repaid vnto them: neither if it could haue bene, could he yet be without imputation & disgrace, that was so without cause displaced. Besides that, vnto many their credit & reputation was in more esteeme & deerer than was their profit, and much the more was it to be feared, that if they should both of their money and preferment be together spoiled, least their present credit and profit being impaired, and the hope also of the recouerie of the money they had paid lost, should minister vnto many of them occasions for them to raise rebellions and new sturres in the estate of the Commonweale. Wherefore the want of money in the common treasure profited vs then mindfull of other things, and fortune so fauoured our vnskilfulnesse and ignorance, as in aunient time it did a painter, who painting of an horse, when as he not knowing how cunningly to expresse the foame of the horses mouth, and wearie of his worke not well sorting to his mind, in an anger cast his wet sponge at it, and so by fortune expressed that which he by cunning could not do: euen so it pleased that king to lessen the multitude of his officers stil as they died, by chusing no new in their steads, when as he could not againe restore vnto them the money they had paid for their offices; neither yet if the princes wealth & power had bene so great, as with his becke or a wink of his eye, to cause all his subiects to tremble, and so to be able to doe what thing soeuer he list, should he yet seeme to do wisely by force to take away the offices and places before sold vnto his magistrats and officers: For that not onely they which haue received the iniurie, but euen other his subiects also, are oft times much moued and incensed with iniuries and wrongs done vnto other men: Besides that, the mightier that a man is, the more iustly and temperately he ought to behaue himselfe towards all men, but especiall towards his subiects. Wherefore the Senat and people of Basil did wisely, who hauing renounced the Bishop of Romes Religion (which they now detested) would not vpon the sodaine thrust the Monkes and Nunnes with other the Religious persons out of their Abbies and Monasteries: but onely tooke order, that as they dyed, they should die both for themselues and their successors, expressly forbidding any new to be chosen in their places; that so by that meanes their colledges might by little and little by the death of the fellows be extinguished. Whereby it came to passe, that all the rest of the Carthusians of their owne accord forsaking their cloister, yet one of them all alone for a long time remained therein, and so quietly and without any disturbance held the right of his couent, being neuer enforced to chaunge either his place, his habit, or old ceremonies, or religion before by him receiued. The like order was taken at Coire in the diet of the Grisons: wherein it was decreed, That the ministers of the reformed religion should be maintained of the profits and reuenues of the church, the religious men yet neuertheless still remaining in their cloisters and couents, to bee by their death suppressed, they being now prohibited to chuse any new in stead of them which were dead: as I haue learned by the letters of the ambassadour of Fraunce, who was then at Coire. By which meanes both they which professed the new religion, and they which professed the old, were both provided for: whereas otherwise it had bene an vnreasonable thing to haue thrust them, who had learned not onely to liue idly, but euen to doe nothing at all (as *Lucilius* merrily saith) hauing neither trade nor occupation to liue vpon, out of the old possession of their lands, were it neuer so vniust. Whereof beside the iniurie vnto them done, daunger might haue also ensued, least they not hauing whereof to liue, and so brought into dispaire, might haue attempted some thing against the state; and so haply drawne after them all their friends and allies also, to the great trouble of the whole Commonweale. For the same cause the king hauing giuen leaue for the free exercise of the new religion in this realme of Fraunce, and seeing that they which vnder the colour thereof were gone out of ther cloisters, demanded a portion in

Not good for a prince to vse the greatnesse of his power in displacing of the great officers of his realme and state.

Religious houses with great wisdom quietly suppressed at Basil and Coire.

A the lands and inheritance of their parents or neere kinsmen: it was decreed, and that vpon great paine, That they should againe returne vnto their cloisters: which seemed to be a thing directly contrarie vnto the law, whereby free libertie was giuen for euerie man that wold, to professe the new reformed religion. Howbeit that this was indirectly to stop the mouthes of them which departing out of their monasteries, sought to trouble the estate, and vnder the vaile and colour of religion, to trouble the most great and noble houses of this realme: besides that it had beene also necessarie in all the customes of this realme, to raise the article concerning the religions, who both by the cannon and ciuill laws, as also by all our lawes and customes, are excluded and shut out from all hope of inheritance.

B But now that which we haue said, That the multitude of officers, or of colleges, and companies, of priuileges, or of wicked men, which through the sufferance of princes, or the negligence of the magistrat, are by little and little growne to the hurt of the Commonweale, are by the same meane to be againe suppressed; hath place in all things which concerne the publike state, and hath a reference vnto the nature of the lawes, which haue no force nor effect but for the time to come. And albeir that tyrannie bee a thing most cruell and detestable, yet so it is, that the surest way and meane to suppress the same, if the tyrant haue neither children nor brethren to succeed him, is together with the death of the tyrant to abolish also the tyrannicall gouernment; & not by force whilest he yet liueth to striue to take from him the gouernment, with the hazard of the ruine of the whole estate, as oftentimes it chaunceth. But if the tyrant haue children, and doth what he may to destroy the good, and to put the great men one after another to death (as *Tarquin* the proud, and other tyrants following his steps vsed commonly to doe) or to suppress the magistrats or other great officers which might stay the course of his tyrannie, to the end that hee may without let or controulement doe whatsoeuer him pleaseth: then in this case violent remedies are to bee vsed, but with such limitation and restriction as we haue before set downe, and not otherwise, least so wee might seeme rashly to arme the subiects against their princes.

The best and surest way for the suppressing of a tyrant.

D We ought then in the gouernment of a well ordered estate and Commonweale, to imitat and follow the great God of nature, who in all things proceedeth easly and by little and little, who of a little seed causeth to grow a tree for height and greatnesse right admirable, and yet for all that insensibly; and still by meanes conioyning the extremities of nature, as by putting the Spring betwixt Winter and Sommer, and Autumne betwixt Sommer and Winter, moderating the extremities of the times and seasons, which the selfe same wisdom which he vseth in all other things also, and that in such sort, as that no violent force or course therein appeareth. But if it be oftentimes

The wise politician in the gouernment of the estate is to imitate the workes of God in nature who by little and little bringeth great things to perfection.

daungerous to chaunge the lawes of an estate or Commonweale, as wee haue

before declared: Let vs now see also, if it be not in like sort daungerous

oftentimes to chaunge the magistrats, or that it is much

better to haue them perpetuall and

without chaunge.

Whether.

CHAP. IIII.

Whether it be better in a Commonweale to haue the Magistrats still changeable, or else perpetuall.



Orasmuch as both cities, citisens, and Commonweales, vse commonly to be for nothing more turmoiled and troubled than by men for the obtaining of offices and honours, mee thinke this question to bee one of the most profitable and most necessarie of any that can be made in matter of estate, *whether it be better to haue annuall or perpetuall Magistrats* G in a Commonweale? Than which question I know not whether there be any amongst them which concerne a Commonweal more harder to decide, or more pleasant to vnder-

stand, and therefore not in any wise by vs in this place to be omitted. Which I say not as meaning to take vpon me the deciding of this question, but onely to touch the reasons which might well be giuen both on the one side and the other, leauing the resolution thereof vnto them which heretofore haue better founded the proceeding and consequence thereof. Neither is it mine intent or purpose, either to propound and moue this question, to giue foot vnto them which would chaunge the laws already receiued, which the subiects ought to hold for good and wholesome in euerie Commonweale; H nor for any desire I haue to chaunge the estate of Commonweals already established, which haue continued by long succession and course of yeares.

Reasons to show
that magistrats
ought not to be
perpetuall.

Rewards for ver-
tue ought to be
vnto all men
common.

Now the first and strongest reason that is to be had to make the magistrats and officers annuall, is, for that the first and principall end of euerie Commonweale ought to consist in vertue: and that the scope of euerie good and true law-giuer, is to make his subiects vertuous. Which to attaine vnto, it behoueth him to propound vnto the view and sight of the whole world, the rewards of vertue, as the marke whereat euerie man ought to aime in best sort he can.

Now most certaine it is, that honour is no other thing than the reward and prize of vertue, which neither ought nor can by the counterpoise of profit be esteemed: whereas rather to the contrarie vertue hath no more capital an enemy, than profit deuised to arise by honour. If then the honourable preferments, offices and commissions bee taken out of publique place, to be alwayes enclosed & shut vp within the particular houses of most vnworthy men, who for fauour or money carrie away the same; it is not then to be thought vertue in that estate to be the prize, the corrupt nature of man being such as is right hardly to be drawne vnto vertue, what reward or prize soeuer bee deuised for the alluring of men thereto. And thus much for the first point, which ought to moue princes and wise law giuers, to set preferments, offices, and all such other the rewards of vertue, in the eye of all the world, and so to diuide them amongst their subiects, to euery man according to his deserts, which they cannot do, if they grant them vnto men in perpetuities. I

The root offe-
dition is by all
meanes to be cut
vp in a Com-
monweale which
can hardly be
where magistrats
and officers be
perpetuall.

Another point which the wise law giuer ought still to haue before his eyes, is, To cut vp the roots, and to take away the seedes of ciuill sedition, so to maintaine his subiects in good peace and amitie amongst themselves, and one of them with another. Which is a matter of such weight, as that many haue thought it to bee the onely end which the good law maker ought to hope after. For albeit that vertue may oftentimes be banished out of Commonweales, for men to liue in a disordered licentiousnesse of all kind of voluptuous pleasures: yet in that all men agree, that there is no more daun- K

gerous.

Agerous a plague vnto Commonweales, than ciuill sedition and discord. Forasmuch as it draweth after it the common ruine aswell of the good as of the bad. Now so it is, that the first and principall cause of sedition, is inequality; as to the contrarie the mother nurse of peace and amitie, is equalitie; which is no other thing than naturall equitie, distributing rewards, preferments, honours, and all other things common vnto the subiects indifferently, and in the best sort that may be. From which equalitie the very theecues and robbers themselues may in no wise depart, if they meane to liue together. Hec therefore that shall diuide the honours and offices of estate vnto a small number of men, as needs it must be, when they are giuen for tearme of life, hee I say hath lighted the greatest flames of ielousie of one of them against another, and the greatest fire of sedition that can possibly be raised in a Commonweale.

B Now if there were no more but the two reasons before alleaged, *viz.* The enioying of vertue, with the rewards thereunto due, and the auoyding of sedition, the greatest plague of a Commonweale; yet were they euen sufficient to let, that offices should not be perpetuall, but rather annuall, to the end that euery man so hauing therein part and interest, might so also haue occasion to liue in peace. But yet there are farther reasons also, which is, that by such perpetuities of offices and promotions, not onely the vnitie and concord of subiects, and the true rewards of vertue are so taken away, but that the due punishment by the lawes appointed for offenders are thereby also impeached, or rather quite abolished: Whereof the wise law giuer ought to haue a greater

Perpetuities of offices the cause of impunitie of the great officers.

C regard than of the rewards to vertue due. For that the wise and accomplished man looketh for no other reward of his vertuous actions, more than vertue it selfe: which a man cannot say of vice, neither of the vitious. And for this cause the lawes both of God and man, euen from the first vnto the last, haue commaunded nothing more, than the punishment of the wicked. And what punishment should a man do vpon them, who are alwaies so high mounted, as that it is impossible to come nigh them? Who shall accuse them? who shall imprison them? who shall condemne them? Shall their companions or fellows in power? will they cut their owne armes, or rip their owne entrails? beleue it they will neuer be so euill aduised. What if the great ones bee also partakers of their foule robberies, villanies, and extortion? how shall they then punish

D the others? they will rather blush for shame, and be touched with compasfion of them which are like vnto themselues, than with the hainousnesse of the offences be endued to take of them punishment. But if any there be so hardie as to accuse, yea or but so much as to complaine of one of these demie gods, he is in daunger of his life, as a false enformer, if hee by prooffe cleerer than the sunne it selfe, proue not villanies done in most obscure darkenesse: and admit that all be by them well proued, and that the guiltie magistrat be conuicted and attainted, yet so it is, that this ordinarie clause *Frater noster est*, He is our brother, shall suffice to couer and burie all the villanies, deceits, and extortion, of the most vniust magistrat that a man could imagine. So that hardly one of a thousand which had deserued punishment, should in fiew hundred yeres

E be brought to execution.

But if the magistrats were annuall, it is most certaine, that the feare to be called to account, would alwaies keepe them in awe, and that they would tremble and quake as often as they heard that thundering threatning which the Tribunes of the people made to *Manlius*, *Prinatum rationem rerum ab se gestarum redditurum, quoniam Consul noluisse*, That he being a priuat man, should giue account of such things as hee had done, for that he would not so do being Consull. And indeed what could a man see more faire, than them which had but a little before administred iustice, and taken charge of the common treasure, with other such publike offices, after that they had put off their robes

Great magistrats and officers in doubt to be called to account where they are but annuall.

robes of dignitie, to come in their common attire as priuat men, to giue an account of their actions done in the time of their magistracie. And this is it for which *Plutarch* hath so highly commended the custome of the auncient Romans, who animated the young men to commence their publike accusations against such as had euill acquitted themselves in their publike charges, setting them on as grayhounds vpon wolues, or other wild beasts. In which doing not onely the offenders were punished, but euerie man else also vpon an emulation and strife, as it were endenoured him to doe well; but especially they, who had themselves accused others, as well assured that there neuer wanted some, who still right narrowly looked into all their doings, so that it much concerned them to beare themselves most vprightly in the whole course of their liues. Which benefits those estates and Commonweales must needes want; which haue their magistrats perpetuall, or for tearme of life. For which cause the emperour *Claudius* wisely renewed an old edict or law, then growne out of vse: which was, That hee to whome the gouernment of any prouince was by lot fallen (as the maner was) should forthwith, all excuses set apart, go vnto his charge; and that the time of his authoritie and charge once expired, he should not forthwith take vpon him any other new publike charge or gouernment, to the intent that the euill behauiour or extortion of the magistrats should not by such continuation of their power and authoritie remaine unpunished. For whatsoeuer decrees or lawes bee made, the euill magistrats would still keepe the power in their hands, and doe what they can one for another; in such sort strengthening themselves, as that is a thing almost impossible to haue of them any reason. Which was the cause that moued *Hannibal* that great capitaine to present a request vnto the people of Carthage, To make their iudges annuall, which before held their places for tearme of life, and that none of them should keepe his place two yeates together, as *Linie* reporteth, whose words we thought good thus here to set downe, *Iudicum ordo ea tempestate dominabatur Carthagine, eo maxime quod idem perpetui iudices: res, fama, vitæque omnium in illorum potestate erat; qui unum eius ordinis, & omnes aduersos habebat. horum in tam impotenti regno Prætor factus Annibal, vocare ad se Quæstorem; idem pro nihilo habuit; nam aduersa factionis erat: & quia ex quæstura in iudices potentissimum ordinem referuntur, iam pro futuris mox opibus animos gerebant: indignum ratus Annibal, viatorem adprehendendum Quæstorem misit, subductumque in concionem non ipsum magis quam ordinem iudicum (præ quorum superbia atque opibus nec leges quicquam essent, nec magistratus) accusauit, & ut secundus auribus accipi orationem animaduertit, legem extemplo promulgauit pertulitque*, The order or companie of the iudges (saith he) did at that time beare all the sway at Carthage; and well the more, for that the selfe same men were still perpetuall iudges: euerie mans wealth, fame, and life, was in their power; he that had one of them of that order against him, had them all his enemies. In this their so insolent a raigne *Hannibal* being made Pretor, conuented one of the Quæstors, or publike receiuers before him, which made thereof no reckoning, for why, he was of the contrarie faction. vnto him: and forasmuch as out of the Quæstors choyce was still made into the most mightie order of the iudges, they still bare their haucie minds aunswerable vnto the wealth and power they were afterwards to enioy. Which *Hannibal* taking for a great indignitie, sent a sergeant to lay hands vpon the Quæstor, and hauing brought him into the generall assemblie of the people, accused not him more than he did the whole order of the iudges (through whose pride and wealth, neither the lawes nor the magistrats were (as he said) any thing at all regarded) and perceiuing his speech to be with the good liking of the people receiued, forthwith enacted, and proclaimed a law, That the iudges should be euery yeare chosen, and that none of them should be iudges two yeates together. And thus farre he. For why,

Euill magistrats
most commonly
hold together.

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A it was otherwise a thing impossible to chastise them, a man still hauing them all his enemies, that should touch but one of them. For that they beeing perpetuall magistrates, and commonly allied one of them vnto another, it was impossible to hope to haue any of them punished, and much lesse to haue against them iustice, if a man had any thing to do with them: and in case a man refused one of them, hee must in so doing refuse the whole bench of them also. As not many yeares ago in the court of Paris (which at this time consisteth of an hundred and fiftie iudges) in a suit betwixt *Chr. Thuan*, chiefe iustice in that court, and *Iohn Tili*, register of the court (who tooke vpon him the defence of his daughter being absent) were, for alliance onely, threescore iudges on the one side, and two and fortie on the other, chalenged and reiected, and all vpon the same bench. And for this cause it was ordained in the assembly of the estates of the countrey of Languedoc, holden at Montpellier in the yeare 1556, where then I was, and charge there giuen to *Iohn Durande*, attorney for that countrey, That amongst other his instructions, he should especially moue the king, that it might please him to ordaine, that the nie kinsmen or other of alliance vnto the iudges, should not from thenceforth be admitted vnto the same bench, neither into the same court. Which same request foure yeares after, was by the estates of Fraunce presented vnto the king in the parliament at Orleance, howbeit that nothing could therein bee obtained, neither can be, so long as honours and preferments are in perpetuities giuen in the Commonweale. For it is now two hundred and fiftie yeares since that king *Charles* the fift, and before him *Philip* the Faire had ordained, That no man should bee iudge in the same countrey wherein he was borne: as in like case *Marcus Aurelius* made an edict, That no man should be gouernour in his owne countrey. Of which law the profit was thought so great, as that he would haue the same afterwards extended euē vnto them which were but counsellours or assistants vnto the gouernours of countreies: which was a thing then wel put in execution, as it is at this present in Spaine, & in most of the cities in Italie, where the ordinarie iudge is most commonly a stranger. Which was also by the ambassadours of Moscouie requested of the estates of Polonia. Howbeit that the decrees of our kings concerning those matters, were quickly buried; after that the publike offices and charges began to be with vs giuen for tearme of life. And not to search further into the edicts of the Roman emperours, we find also in *Cæsar* his Commentaries, that the auntient Gaules, and namely they of Autun, had amongst them an inuiolable law, which expressely forbad the magistrats to be continued in their places aboute one yeare, and that two of one familie could not be magistrats together, nor yet one of them, so long as the other who had already bene magistrat should liue. And that more is, it was alwaies expressely forbidden, That two of one familie might be counsellors together, neither yet one of them, so long as the other who had already bene a counsellour was aliue.

That no man
should be a iudg
in his owne
countrey.

The ordinarie
iudges in Italie
strangers.

Lib. 7.

E Moreouer the thing which ought of all others to be most recommended vnto all subiects in generall, & euerie one of them in particular, is the preservation of the Commonweale. And what regard or care of the publike good should they haue, which therein haue no part? Such as are themselves excluded, and which see the common preferments and offices giuen in prey to some few in perpetuities? How should they haue any care of that which concerneth them not, neither neere, nor a farre off? And admit that any good and honest man would say, would doe, or vndertake, any thing that were for the common good or profit, being himselfe but a priuat man, who should hearken vnto him? who should support him? who should fauour him? So that euery man leauing to thinke of the publike, entendeth vnto his owne businesse, and hee in that case should be but laughed at, and derided as a foole, which should take more care

The great offices
and preferments
of the Common-
weale giuen in
perpetuities breed
a carelesnes
of the Common
good both in the
magistrats them-
selues and others

of

of the common welfare than of his owne. As for them who alreadie enjoy the publike preferments and offices, they for the most part haue no great care of the common good, being now for euer assured of that which they most desired. O but how much more happie should both the subiects and Commonweale be, if euerie man in his degree and according to his qualitie, hauing enjoyed conuenable preferments, and so hauing learned true wisdom by the manning of worldly affaires, should retire themselves from these vaine and worldly busineses, to occupie themselves in the contemplation of things naturall and diuine? For most certaine it is, that contemplation is the true mother and mistresse of al true wisdom and happinesse, which men altogether wrapped vp in worldly affaires, neuer so much as once dreamed or tasted of; and yet for all that this is the end, this is the scope, this the chiefe point of all mans felicitie. F

One man to haue many offices and especially in perpetuall, not good for the Commonweale.

And yet besides these three, there is another great inconuenience also, in that offices and preferments are in Commonweales graunted vnto men for tearme of life: that is to wit, that some few would haue all, and some one would possesse himselfe of many publike charges and offices at once; as it was in auncient time permitted them in Carthage: which for all that seemed both vnto *Plato* and *Aristotle* a thing right daungerous, For that it is an hard matter for one man well to discharge one office, but well to discharge many no one man can; and is therefore in euerie well ordered Commonweale a thing forbidden. Howbeit that the ambitious desires of men alwayes passeth beyond the prohibitions of the lawes, the most vnworthy most commonly burning with the hoatest flames of ambition; not vnlike the weake stomacke, which is alwaies more desirous of meat which it cannot digest, than is the stomacke which can better digest it: thinking it not to stand with their honor and reputation to stay in the meane, or to abate any of their titles and dignities, but contrariwise to mount still higher and higher. In so much that the seigneurie of Venice in some sort to satisfie the ambition of the citisens, gaue leaue vnto him which had borne a greater office, to refuse the lesse being laid vpon him: which is a daungerous course, to measure the publike charges and offices, by the foot of the subiects ambition, and not by the common profit. G

Then how much more daungerous is it, to make the magistrats and publike charges perpetuall, onely to serue the ambitious desires of some, and so to make the Commonweale subiect vnto the desire and pleasure of some few? For why, it is to be feared least that they who can neuer satisfie their immoderat desires with the multitude of offices and publike charges, but had rather to burst at the table of ambition, than in time to withdraw themselves: It is (I say) to be feared least some hungrie fellowes shall at length say vnto them, Depart you hence; or if they will not so doe, plucke them away by force, not without their owne daungers, and troubling of the quiet estate of the Commonweale. At the assemblies of the estates of Rome into the place called *Campus Martius*, for the chusing of their cheife magistrats, and other their great officers, certaine narrow bridges were in diuers places laid for the citisens to passe over by, that so the little tables wherein their voices were contained, might the better be of them receiued: at which time such as were threescore yeares old, were still warned to giue place, and not to come to giue their voices, least haply they might by the multitude of the younger sort be oppressed: and not for that such old men were cast headlong from off the bridges into the riuer, as some haue thought. But how much more seemely were it for them which haue quietly of long enjoyed the great offices and preferments in the Commonweale, and which are now growne old therein, sweetly to retire themselves out of those high places, than violently to be thrust out by others? especially considering that there is no place more slipperie or daungerous, than are the places of honour and commaund. Besides that (which worse is) such ambitious men in their falling H

Old men in danger to be thrust off the bridges.

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A ling draw after them the fall of many others also, together with the ruine of the whole Commonweale; as did *Marius*, who hauing passed through all the degrees of honour, and bene six times Consull (which neuer Roman had bene before him) yet not so content, would needs take vpon him the charge of the wars against king *Mithridates* (which by lot was fallen vnto *Sylla*) howbeit that hee was now growne extreame old, to the intent to obtaine the seuenth Consulship, and to continue a perpetuall commanding power vnto himselfe. But *Sylla* vnderstanding of the commission giuen to *Marius*, and of the authority by a tumultuous assembly of the people taken from him now absent (and hauing also an army with him) contrarie vnto the law and the custom of their auncestors, straight way returned to Rome with his partakers, seized vpon the citie, where he made a most horrible massacre; which afterwards in such sort continued, as that all Italie and Spaine was embrued with blood, not onely the captaines and chiefe commaunders of *Marius* his faction being by *Sylla* slaine, but euen his companions, friends, and kinsmen also, being most shamefully proscribed, or els banished, and so the Popular estate brought vnto an extreame tyrannie. So euen for the same occasion three hundred yeares before, the Popular estate was there chaunged into a faction of an Oligarchie; not for hauing of offices in perpetuie for tearme of life, but onely for hauing continued the charge vnto the Decemviri, or ten Commissioners, for two yeares together; men appointed for the reforming and amending of the lawes, who would haue so continued the third yeare also, and by force of armes still maintained their commission, encroaching vpon the libertie of the people, had they not by force of armes (though not without great danger of the state) bene againe remoued.

Ambitious men neuer satisfied with honors, oftentimes the cause of great troubles in a Commonwealth.

So by the same meanes many Popular and Aristocratique estates were chaunged into Monarchies, or at leastwise into tyrannicall governments; for hauing giuen the publicke charges and commissions vnto their magistrats or commissioners, for longer time than was needfull, or for proroguing of them longer than by the law they should; as to *Pisistratus* in Athens, to *Philon* in the citie of Argos, to *Cypselus* in Corinth, to *Dionysius* at Syracuse, to *Panetius* at Leontium, and to *Cesar* at Rome. Which *Aemilius Mamercus* the Dictator foreseeing, presented a request vnto the people, which passed into the force of a law, whereby it was ordained, That the Censors power from that time forward should continue but for eightene monethes, which before was established for fife yeares: and the next day after that he was created Dictator, deposed himselfe of his Dictatorship, being not willing to hold it more than one day; giuing this reason vnto the people of his so doing, *Ve scitis quam mihi diuturna imperia non placeant*, That you may know (saide he) how little long lasting authoritie and power please me. And for the same occasion the law *Cornelia*, published at the instance of one of the Tribunes of the people, prouided, That it should not be lawful for any man to seeke to haue one and the same office more than once in ten yeares. Neither missed it much but that *Gabinus* the Tribune had by the Senators themselves beene slaine in the full Senat, for hauing by his request made vnto the people, procured commission for fife yeares together to be graunted vnto *Pompey*, for the ending of the Piraticall warre: Whereof *Dion* giueth a notable reason, For that (saith he) the nature of man is such, as that a man hauing for long time borne some honourable charge, commonly hath al other men in contempt and disdain, neither can well endure to liue in subiection after he hath for a long time commaunded. Which thing *Cassiodorus* almost in the same sence writeth, *Antiquitas provinciarum dignitatem voluit annua successione reparari, ut nec diutina potestate vnus insolesceret, & multorum prouectus gaudia reperiret*, Antiquitie (saith he) would the honour of the provinces to be repaired with annuall succession, in such sort as that one man should neither grow insolent with long power, and

Continuation of great offices oftentimes the cause of the change of the estate.

preferment be a comfort to many. And haply it was not one of the least causes that the Assyrian and Persian empires stood so long, for that they euerie yeare chaunged their lieutenants and generals. F

Great inconueni-
ences ensuing by
making of offices
and dignities he-
reditarie.

But how then commeth it to passe, that euen children by way of complaint sue to be maintained and kept in the possession of the honours and estates that their fathers and grandfathers had? As in fact hath bene seene in the constables of Campagne, of Normandie, and of Britaigne: in the marshals De la Foy, as they rearme them, in the great chamberlaines, and other infinit, euen vnto the sergeants fees of Normandie, as I haue before noted. And namely in Aniou, Touraine, and Maine, the house of Roches had made the offices of bailifes and stewards hereditarie, had not *Lewes* the ninth reuoked them, and made them mutable and iusticiable, by his decree in the yeare 1256. G The like is done in Principalities, Dukedomes, Marquisats, and Earledomes, which now are had in perpetuities, which before were holden but by way of commission, and that during the princes pleasure, which at the first were but annuall, but afterwards perpetuall: and at last by the fauour of our kings are become hereditarie. Howbeit that other people also as well as we, haue in the same errour offended: So that there is almost no place in all Europe (except in England) where offices and dignities are not now hereditarie, in such sort as that commanding power and authoritie, with the administration of iustice, is by right of succession fallen euen vnto women and children, and so of a thing publike made particular, and to be sold to him that wil giue most, as it must needs be, being once brought into the forme of a patrimonie, which hath giuen H occasion more boldly to trucke all estates and offices, when as men see by the lawes and customes euen sacred iustice it selfe prophaned, and set to sale to him that will giue most: Of which inconueniences is proceeded the euill custome of making of all estates and offices perpetuall. For one should doe iniurie to take an office from a marchant, and not restore vnto him againe the money that he paid for it. Thus we see the dangers and absurdities one of them as it were linked in another, by the making of the estates and offices of the Commonweale perpetuall. Besides which reasons by me alleaged, we haue also the authoritie of the greatest Law makers, Philosophers, and Lawyers, as also the examples of almost all the auncient Commonweales; as namely, of the Athenians, the Romans, the Celtes, and others infinit, who haue flourished, and do yet flourish in diuers places of Italie, Swisserland, and Germanie, as also the authoritie of Sir *Thomas Moore*, chauncellour of England, who in the Commonweale by him deuised, maketh all the magistrats and officers therein annuall, some from six moneths to six monethes, and other some from two monethes to two monethes, and all to auoid the inconueniences which I haue before spoke of. And these reasons they for most part vse, which say, That magistrats and officers should not be in a Commonweale perpetuall. I

The great incon-
ueniences ensu-
ing of hauing
the offices in a
Commonweale
still annuall or
changable;

But now on the other side, they which maintaine it to bee more for the publike good, to make the estates and offices in a Commonweale perpetuall, alleage, That nothing can be well done in a yeares space, when as the magistrat must depart out of his charge before he well know his dutie; and hauing begun to vnderstand what belongeth vnto his place, must yet forthwith leaue the same vnto a new man; and so hee likewise vnto another, all still new men; so that the Commonweale is still to fall into the hands of vn sufficient men, and such as want experience. But suppose that the prince or the people, or they which haue the choice of the magistrats, commit not the publike charge but vnto men knowne to be of good experience. yet seeing so many holy daies, dayes not iudiciall, vacations, daies of election, and of triumph, as take vp a great part of the yeares, as well the publike as mens priuat actions must therewith needs be troubled, K

warres

A warres begun be delaid, iudgements interrupted, actions of the wicked abolished, punishments deferred, & in brieft the Commonweal in the greatest dangers therof to be abandoned. Whereof wee haue a million of examples in all histories, both of the Greekes, and of the Latines, which had their offices annuall. And it hath oftentimes happened, that the magistrats and captaines hauing charge to make & performe some warre, were vpon a sudden called home againe, and so all was at a stay: as it happened when question was for the sending of one to succeed *Scipio Africanus*, the people, the Senat, and the magistrats, found themselves therewith greatly entangled; *Nutis* (saith *Liuius*) *contentionibus & in Senatu, & ad populum acta res est: postremo eò deducta ut Senatui permitterent: patres igitur iurati (sic enim conuenerat) censuerunt ut Consules prouincias inter se compararent*, The matter (saith he) was with great contention debated, both in the Senat, and before the people; at length it was brought to that point, as that the people committed it vnto the Senat: wherefore the Senators beeing sworne (for so it was agreed) determined, That the Consuls should diuide the prouinces betwixt them. Which was a great nonelie to sweare the Senat thereunto. But *Scipio* vnderstanding of the decree of the Senat, whereby one of the Consuls was forthwith to succeed him, without farther delay concluded a peace, more to the aduantage of the enemye than hee would otherwise haue done, if hee had not feared least his successour should haue carried away from him the glorie and honour of his victorie, as it is reported himselfe to haue oftentimes said. So the warre against king *Mithridates* was protracted aboue twentie yeares, by reason of the continuall chaunging of the Roman Generals, the enemye in the meane while (many faire opportunities by him offered, and by the Romans neglected) farre and wide extending his dominion and empire. Yea sometimes the Generall was to giue vp his charge, when hee was cuen vpon the point to ioyne battell with the enemye, although he had none appointed to succeed him: as it happened vnto the great captaines *Epaminondas* and *Pelopidas*, whose charge expired euen at such time as they were to giue the enemye battell: who yet neuerthelesse seeing themselves to haue an aduantage of the enemye, and that they could not without the most manifest danger of the state leaue their charge, gaue battell, and so obtained a most glorious victorie, whereby the Thebans with their allies were preserved, and the Lacedemonians with a great slaughter ouerthrowne. But returning home, in stead of thanks and triumph, they were both accused of high treason, for that they had holden their charge longer than the time by the law appointed, & so brought vnto their triall and conuicted, were by the commissioners condemned to die: howbeit that they were afterwards by the people pardoned. Now who knoweth not how many strong places haue bene taken by the enemye, for chaunging of their captaines: how many cities and townes haue bene forced, for hauing put into them new gouernours: and especially at such time as the enemye was neere, & readie to besiege the same: as oftentimes it commeth to passe, that the fauourites carrying away the honor, the old expert captaines are excluded, who right often in reuenge thereof either go ouer vnto the enemye, or els otherwise disfurnish the place of victuals, and other things necessarie.

E

And yet there is another reason which might well stay the preferments and offices of the commonweale from being mutable, which reason *Tiberius* the emperour had still in his mouth, at such time as men complained him to be the first that had for many yeares together continued the estates and offices still in the same mens hands: I do it (saith he) to the end that they which are already full of the blood of the people, may as Horseleeches, full and ready to burst, giue the subiects some release, fearing lest such as should come new & all an hungred, should without remorse or respect at all, draw out the rest of their blood, gnaw their bones, and sucke out the very marrow that was yet

The reason why
Tiberius the
Empero: would
not haue the
great officers
often chaunged.

left in the subiects. And this vnto me seemeth to be a reason of right great importance: F
for it is an olde and true saing, *Non parcit populis regnum breue*, a short raigne spareth not the people. And yet in the raigne of *Tiberius*, offices and other places of command, were vsually giuen and not sold; obtained, but not craued, vpon men of desert bestowed, and not shamefully set to sale to them that would giue most: which opinion of *Tiberius* ought to bee of much more force in such places as where port sale is made of all preferments and offices of the common weale: for it is to bee presumed (as sayth *Alexander Seuerus* the emperor, & after him *Lewes* the 12) that the marchants of offices must sel by retaile, & as deere as they can, that which they had before bought in grosse.

And beside that which we haue already said, how is it possible that he should command with such authority as beseemeth a magistrat, which seeth that by and by after G
he shall but stand for a ciphert (as they say) without any authority or power at all? who shall obey him? who shal feare him? who shall do his commaunds? whereas to the contrary, if the magistrats power be perpetuall, he shall command with dignity, hee shall boldly oppose himselfe against the wicked, and giue ayde and succour vnto the good: he shall reuenge the wrong done vnto the oppressed, and resist the violence of tyrants, and that without feare or misdoubt of being thrust out, or dispoyled of his dignity and office, as hath bene seene by some euen of the greatest princes, astonished with the constancy & immutable assurance of the magistrats, not hauing what to reprove him for: neither yet daring to displace them, fearing also the discontentment of their subiects, H
vnto whom the brightnes of Iustice and vertue is alwayes redoubtable, and the integrity of valiant and couragious men right commendable.

In brieft, if we would haue (as all men ought to wish to haue) magistrats wise, stout, and well experimented in the charge committed vnto them, we must wish them to bee perpetual: for why it is impossible that new magistrats should be expert in their charge the first yeare, considering that the life of man is right short, and the nature of authority and power most difficult, whether it be for the training vp of the subiects in warres, or for the maintaining of them in peace; for the administration of Iustice, or for the managing of the publike reuenues: all which cannot in short time of new magistrats be either thoroughly learned, or duly practised. For as the ruine of families commonly cometh of new seruitors, euen so the fals of Commonweales also proceedeth from I
new magistrats, who still bring in new deuises, counsels, laws, factions, customs, edicts, stiles, iudgements, ceremonies, actions, and in brieft a new chaunge of all things in the Commonweale; whereof ensueth a contempt of the old laws & customs, as also of the magistrats themselves. All which may well be seene in the antient Commonweales of the Greeks & Romans, wherein the new magistrats were no sooner placed, but they forthwith forged new edicts & laws, so to cause themselves to be the more spoken of; without regard whether they were profitable for the Commonweal or not: propounding only this vnto themselves, how to leaue a remembrance of their names vnto posteritie: whereas men so sicke of ambition, are still more desirous of a great than of a good name. Howbeit that it is not needfull to vse many arguments to proue & show K
as it were vnto the sight of the eye, that the magistrats and officers ought to be perpetual, seeing that we haue the law of God, which cannot bee so bound vnto places or persons, but that a man therefrom may well draw an example to imitate and follow. Now it is not found, that the magistrats and officers established in the law of God were annuall: neither is it found, that they which were once provided of honorable places and preferments in the Commonweale, were euer after againe remoued to giue place vnto new magistrats, and so to yeeld vnto ambition that which is to vertue due. So wee find also, that *Plato* would that the offices in his Commonweale should still

A still for the most part be perpetuall. So that in brieve we see the reasons by vs alleaged, to be by the sacred scriptures, as also by long experience and tract of time confirmed, not by the example of small Commonweales, but euen of the greatest and most flourishing monarchies and kingdomes that now are, or euer were in the whole world, as were those of the Assyrians, the Persians, the Egyptians, the Parthians, the Aethiopians, the Turkes, the Tartars, the Moscouites, the Polonians, the Germans, the French men, the Danes, the Swedens, the Englishmen, the Scots, the Spaniards, the Italians; excepting some few Commonweals, which are still turmoiled with the continual changing of their Magistrats, and perpetuall floods of sedition and discord for the shortnesse of their offices.

B Now it is not like so many people and nations to haue failed of the light of nature, of iudgement, of reason, & experience, seeing their estate so wisely managed, and to haue so long flourished both in time of peace and war: which could in no wise so long haue stood, had their mutable magistrats bene euery moment to haue bene anew chosen. And thus we see the reasons both of the one side and of the other, which might moue some to make their magistrats perpetuall, as some others also to make them annuall. Vnto which reasons sometime are ioyned such flourishes of eloquence, as might at the first well dasse the eyes not onely of the ignorant, but euen of the sharpest witted also, to heare the reasons of the one side, without giuing of eare vnto the reasons of the other, which are hereby vs indifferently set downe, that euery man might suspend his iudgement, vntill that euerie thing were in equall ballance well weighed.

C But as men oftentimes erre in the maintaining of the societies of men, and gouernment of cities and Commonweales; so doe they in two notable things also especially: whereof the one is, That they too narrowly looke into the inconueniences of a law, without weighing of the good that ensueth thereof: the other, That they ruine from one extreame into another; and so as it were shunning the water, run all headlong into the fire, when as they should haue staied in the middest. *Plato* would, that the magistrats in his Commonweale should bee all perpetuall: which extremitie seemed vnto *Aristotle* blame-worthy, who therefore running himselfe into the other extremitie, and reiecting the opinion of his master *Plato*, opened a way vnto all the citisens, to all the honours and preferments of his Commonweal, saying, That otherwise to do, were to kindle the fire of sedition in the whole estate: whereas yet neither the one nor the other of them hath made any distinction at all of Commonweales, whereof the resolution of this question especially dependeth. And we haue seene euen in this our time one* of the greatest persons of this realme, and the chiefe man of his cote, who hauing embraced the opinion of *Aristotle*, hath endeououred himselfe by all means to change all the offices into commissions, to be holden but by sufferance: who neuer had other thing in his mouth, and yet without any distinction in what forme of Commonweale this change were, without harme to be receiued.

Two great errors oftentimes committed in the gouernment of Commonweales.

D Now most certaine it is, that Commonweales in nature contrarie, are by contrarie lawes and meanes to bee also gouerned and maintained (as wee haue oftentimes before said, and yet must oft times say) so that the rules and orders proper to maintaine and preserue Popular estates, serue to the readie ruine and ouerthrow of Monarchies and sole governments. The Popular estates are maintained by continuall chaunge of officers, to the end that euery man according to his qualitie might haue part in the offices, according as they haue part in the soueraigntie, which can in no wise bee where offices be giuen in perpetuall. Besides that equalitie the nurse of Popular estates is by the annuall succession of magistrats the better maintained, and the long custome of continuall command giue not an appetite

Michael hospiralis chancelour of France.

E Now most certaine it is, that Commonweales in nature contrarie, are by contrarie lawes and meanes to bee also gouerned and maintained (as wee haue oftentimes before said, and yet must oft times say) so that the rules and orders proper to maintaine and preserue Popular estates, serue to the readie ruine and ouerthrow of Monarchies and sole governments. The Popular estates are maintained by continuall chaunge of officers, to the end that euery man according to his qualitie might haue part in the offices, according as they haue part in the soueraigntie, which can in no wise bee where offices be giuen in perpetuall. Besides that equalitie the nurse of Popular estates is by the annuall succession of magistrats the better maintained, and the long custome of continuall command giue not an appetite

Commonweales in nature contrarie, by contrarie meanes to be also maintained.

Annuall magistrats, best in a popular Commonweale.

or desire to some one or other ambitions citisen to aspire vnto the soueraigntie alone. **F**
 Whereas to the contrarie in Monarchies it is not necessarie, no nor yet wholesome, that subiects hauing no interest in the soueraigntie, should be nourished in ambition, it being sufficient for them to learne to bee dutifull and obedient vnto their soueraigne prince, and especially if the Monarchy be Lordlike or Tyrannicall: For that the subiects in the one be the princes naturall slaues, and in the other the tyrants slaues by force, it should be a thing impossible for such a Lordlike Monarch, or tyrant to hold their estates, and to giue such yearely or successiue commanding power vnto their subiects. And therefore tyrants, who are no lesse hated and feared of their subiects, than they themselves feare and hate them, hauing little or no trust or confidence in them, for most part guard themselves with straungers onely, and some few of their owne subiects, such as they know to be vnto themselves most loyall and faithfull, vnto whome they commit the custodie and guard of their owne persons, of their estates, of their forces, and of their wealth, without any desire at all to chaunge them, not onely for that they distrust others, but also for that they would not acquaint them with the sweetnesse of power and command, least so some one or other of them therewith enflamed, should be desirous to dispatch the tyrant of his life, so to obtaine his place: or els otherwise in so doing to gratifie the subiects. Whereas the Lordlike Monarch whome his subiects more willingly obey as his naturall slaues, is not so much hindred or letted from the choice of his magistrats and officers, as is the tyrant, who is not but by force and constraint obeyed of his subiects; and therefore giueth not the preferments or offices of his estates in perpetuities, neither yet maketh them annuall; but onely bestoweth them as he seeth good, and that for so long as please him, diuiding them amongst many at his good pleasure, without any law or decree therefore, all depending of his will and pleasure.

The pollicie and craft of tyrants.

The magistrats in a royall monarchie some perpetuall and some annuall.

But the Royall Monarch, who is in such sort to intreat his subiects, as is the good father his louing children, albeit that he be no more bound vnto mans lawes, than are the other Monarches, yet will he neuerthelesse of himselfe establisth decrees and lawes, for the placing and displacing of magistrats and officers, to the end they might so bee holden; diuiding the honours and rewards of vertue not to all indifferently, without discretion, but vnto such as deserue the same; hauing still more respect vnto the experience and vertue, than vnto the grace and fauour of them who are vnto him most of all commended. And yet for all that, shall in all things obserue and keepe the commendable mediocritie, in such sort, as that he shall make many offices perpetuall, and some changeable also from three yeares to three yeares; and othersome to bee euerie yeare also chaunged; as namely the presidents of the parliaments, of the finances or common receit, or gouernours of prouinces, who could neuer otherwise bee punished for their oppression and misdemeanor, if they had their such great authoritie and power in the estate and Commonweale still in perpetuities. He shall also diuide the honors and preferments of the state, vnto the richer and nobler sort, albeit that they be not men of so great experience as are some of the poorer and baser sort, so to preuent sturres and seditions: yet for all that provided alwayes, that vnto them which of themselves are not of sufficient capacitie be still associat men of good experience in their charge, so to couer and supplie the defect of the others: And yet is not so bound, vnto his own laws, but in case of necessitie hee may againe displace them whome hee hath before ordained to be perpetuall magistrats, finding them of whome he hath so euill made choice, for the weakenesse of their minds or bodies, to be altogether insufficient for the publicke charge to be by them sustained, or for to couer the shame of them which are so insufficient, shall giue them some honest meanes to discharge themselves of such their charge **K**

A charge: as did the most wise emperor *Augustus* vnto a great number of the Senators, who vnworthy of their so honourable places, by that meane cleanelly displaced themselues, without any force or sturre; or at leastwise shall appoint them deputies for the executing of their charge: yet in the meane ritne suffering the magistrates and officers themselues, to enioy still their titles of their offices, and woonted priuileges. And to the intent that iustice, the principall and chiefe ground of an estate or Commonweale may bee the more religiously distributed, hee shall for the administration thereof appoint perpetuall colledges and companies of Iudges, and especially of such as are without appeale to iudge of the liues, sanie, and goods of the subiects: not onely that these iudges should so be the better experimented (as well for

B hearing the opinion of diuers, as for their long exercise in iudgement:) but also that so their feuerall power might be in some sort weakened (for feare they should abuse the same) and that so being many of like authoritie and power, they should not so easily be corrupted: not unlike to a great deale of water which is more hardly corrupted than is a little. For as *Plinie* sayth: *Nemo omnes, neminem omnes unquam fefellerunt: melius omnibus quam singulis creditur*. No man euer deceiued all men, neither did all men euer deceiue any man: better it is to beleuee all than one. Howbeit, yet that by the wisdom and vertue of some one good iudge, a whole companie, or bench of iudges of the same court is oftentimes releued: and their factions and secret practises broken; or being otherwise good men, yet misse-enformed by false accusers and pettie foggers, cannot know or vnderstand the truth: but are by the wisdom of some one of their companie the better enformed. As I haue knowne one iudge alone to haue caused the whole companie of iudges to change their opinion, being before resolved and set downe to haue put a poore innocent woman to death: whom yet for all that he by most pregnant and liuely reasons clearely and fully acquitted of that shee was in danger to haue beene condemned for. Who therefore well deserueth to be named: and was *Potier* a learned iudge of great integritie and vertue: who hath left unto his countrey his two sonnes inheritous of their fathers vertues: one of them Master of the Requests: and the other, Secretarie of the Finances; in vertue not inferior unto their father. Besides that, the experience of many worlds of yeares hath giuen vs sufficiently to vnderstand many iudges, by conferring their opinions together, to giue thereby a better and sounder iudgement, than where they iudge euery one of them apart. Howbeit that *Aristotle* thinketh it better to haue euery iudges opinion considered of apart by it selfe: and that he saith to haue beene the vsuall manner of iudgement in many the cities of the Greeks. Now the Romans to haue holden both these fashions and manners of iudgements *Aconius Paxianus* is the Authour, where he saith: *Aliam esse rationem cum vniuersi Iudices constituunt, aliam cum singuli sententiam ferunt*, It to be one manner of proceeding when all the iudges together determine of a matter, and another when euery one of them deliuer their opinions apart. Wherefore causes

E are more indifferently and vprightly discided in Europe by a competent number of iudges together: then by seuerall iudges in Asia and Africke, whereas one particular iudge of a Prouince according to his will and pleasure determineth of all appeales made vnto him from the other particular and inferiour iudges in that prouince. And albeit that in Grand Caire (one of the greatest cities of the world) there be foure iudges which haue their diuers and seperate iurisdiccions, and euery one of them haue also their diuers Deputies, who iudge also of causes apart and by themselues, yet are the appeales still brought vnto the first iudge chiefe of the foure; who alone without any companion or assistant by him selfe at his pleasure discideth all appeales: whom it is no great matter for him to winne, that standeth in his good grace, or that hath the

That the colleges and companies of iudges ought to be perpetual.

Better many iudges then one alone.

greatest presents to give him. Howbeit that the two Cadeleschers are the chiefe of all the judges, and may at their pleasure place or displace any of the rest of the judges, yea and all of them together also so long as it shall please the Grand Seignor. For why amongst the Turkes all power and commaund is but by sufferance and during pleasure both given and received. F

Good that inferior Magistrates & officers should be perpetuall.

Now we have before said that in the royall Monarchie all the Magistrates and Officers should neither be perpetuall, neither all still mutable: For that it is not needfull to chaunge the meane officers, as Clarks, Sergeants, Vshers, Notaries, and such other like, who for that they have no power or authoritie to commaund, cannot hurt the Estate: and yet neuerthelesse the experience of their charge which cannot but in long time and by great practise be got, requireth that they should bee perpetuall. And so might a man say of other inferior officers also, being still subiect vnto the power and authoritie of the greater, but cannot yet oft times be chaunged without the great hurt of the Commonweale, and many priuate mens hinderance. The Senators and Counsellours of estate also, whose dexteritie for the manning of the great affaires of the Commonweale is not but by long experience to be gotten; we see them to haue beene in Rome, in Lacedemonia, and amongst the Arcopagi in Athens, perpetuall; and so I thinke they ought to be euery where else, so that in the perpetuall chaunge of mutable magistrates, the Senate should still be constant, firme, and immutable, and that vpon it the other mutable offices and magistrates should as vpon a most sure stay rest: which was not so well provided for by *Plato, who would haue his Senate to be G
euery yeare by lot chosen. But now as for such great magistrates and officers as acknowledge no commaund more than the soueraigne Princes alone, whither it be in martiall affaires, the administration of iustice, or the charge of the publique receit, if the royall Monarch shall keepe them but one, two, or three yeares in their charge at the most, he shall so leaue open a way vnto his iustice, for the examining of their actions, and by the same meanes shall cause the wicked and corrupt magistrates to quake, standing alwayes in dread to be called to giue an account of their doings. And for that Magistrates and Officers are not to be chaunged all at once (for that all sudden chaunges in a Commonweale are dangerous) and that the publique actions be not interrupted, the chaunge of such great Magistrates as are in corporations and colleges together is to be made by the succeeding of them one of them vnto an other: as they doe in the Commonweale of Rhaguse, where the Senate is perpetuall, and the Senators who are also soueraigne judges, are not but euery one of them one yere in charge: who yet chaunge not all at once, but successiuelly, and as it were insensiblie; and in their turne after that they haue for a certaine time liued as priuate men, returne more fresh vnto the same charge againe. H

Lib. de Legibus
Cap. 174.

A generall and necessarie rule to be kept in euery Commonweale.

But yet generally in euery Commonweale this rule hath alwayes place without exception, *viz.* That the perpetuall Magistrates & Officers should haue either no power at all, or else verie little power to commaund, or else some companion ioyned with them: and that they to whom great power is giuen, haue the same but for a short time, and by the law limited to some few monethes or yeares. By which tempering and moderation of power and commaund, the difficulties and daungers shall cease, which might otherwise ensue by the suddain chaunge of all the Magistrates at once, for the interruption of publique actions. Neither need we so to feare lest the Commonweale should be without Magistrates, as a ship without a master to gouerne the same: as it often times chaunced in Rome, for the sute of the magistrates, who one of them hindered an other, or els the same day entered all into their charge, as they all at one and at the selfe same instant departed out of the same together. Neither need we to feare also I
K

A also left the wicked by briberie mounted vnto the more hie degrees of honour, should escape vncorrected: or that the ignorant or vnskilfull should carie away the preferments of the estate and Commonweale: they which before had charge, hauing for certaine yeares rested themselues; still returning againe with much greater experience then before. Now they which wish for annuall Magistrats, annuall Senators, annuall powers and commaunds, foresee not that (beside the difficulties and daungers by vs before alleaged to ensue thereof) by this meanes either rude artificers or such like ignorant and vnskilfull men, must be called vnto such publike charges as they are neuer able to discharge, or else that the Commonweale must needs be full of most wise men, and such as are of greatest experience and knowledge. Howbeit that cannot by nature be, that all men can do all things: wheras we see particular men scarcely well to discharge their particular charges; and in other some to rest great wisdom, who yet haue no skill in gouernment at all. But in doing that which wee haue said there shall not easilie any default fall out, neither shall the subiects haue any iust cause whereof to complaine; the rewards of honour being so exposed to euery mans sight; as the marke whereat euery one should ayme, though few there bee which hit the same, and the fewer officers and rewards there should be, and the dearer that they were prized, the more they should be of all desired: when as euery man should for his vertue be called vpon, and that there should be no cause of sedition, no man being excluded from the merite and reward of his vertue and sufficiencie, so that the causes of sedition so taken away, the subiects may still liue in all peace and tranquillitie. And if need be we may vse Commissioners or Syndiques, as they did in the time of *Lewes* the ix, and *Philip* the faire, for the chastising of the officers, and the calling of them to account.

Now some difficulties concerning the chaunging of Magistrats and Lawes are by vs before set downe, and more I suppose will be imagined: yet were it vnreasonable to looke into the discommodities of a law (and so for the same to reiect it) without consideration also of the profits thereof, seeing that there is no law so good (as saith *Cato* the Censor) which draweth not after it some incommodities. And in mine opinion that law may alwayes be accounted good and profitable, if the good which may ensue thereof be manifest, and greater then the harme that is to be feared thereof: wherein many often times offend, which thinke it impossible to haue all discommodities quite taken out of the lawes, the Commonweale yet neuerthelesse still standing in safetie, but so falling into such daungers as they before thought not of, straight waies blame the lawes, and often times chaunge the same, when as in truth they should haue accused & chaunged them selues. So some good Princes euill aduised often times to their harme cancell a good Law for some one incommoditie they haue seene therein. Whereof we will vse no other example then that of *Lewes* the xj, who comming to the Crowne at once displaced all his fathers auntient seruitours; and remoued also the princes his nie kinsmen from the gouernment of the state: who therefore with a wonderfull consent conspired with the enemy against him, and brought him to such a strait, as that they had almost stricke the crowne from his head, and by force wrested the roiall scepter out of his hands. But these sturtes againe quieted, and all things well pacified and set in order, fearing lest his sonne should fall into the like daunger, charged him neuer to chaunge them whom he had aduanced; and yet not so contented, made a law, whereby he decreed all offices to be perpetuall; and that such as were once preferred thereunto, should not be againe displaced, otherwise then by resignation, death, or forfeiture: And by an other Edict declaring the former, published the xx. of September in the yeare 1482 decreed, That no officers hauing forfeited their offices, for what cause soeuer, should be enforced to yeeld vp their offices, except it were so before adiudged,

No lawe so good but that it draweth after it some discommoditie.

That a good law is not to be changed for some one discommoditie ensuing thereof.

Dangerous to change all the cheife magistrats of a Commonweale at once.

adiudged, and the parties condemned. Which edict hee commaunded to stand in force, not onely whilest he himselfe yet liued, but also during the raigne of his sonne *Charles*. And albeit that he could not so bind the hands of his successour, yet so it is neuertheless, that this his decree & law hath euer since bene inuolably kept, although the auncient clause, *So long as it shall please vs*, remaine still in all letters of office. Which words declare no perpetuall power to be giuen vnto the magistrats or officers, but by sufferance onely, except by law or custome it be otherwise provided. Yet still remaineth that idle clause, that thereby it may be vnderstood, all power and authoritie to haue in auncient times bene giuen by our kings during their pleasure, and so to haue of the magistrats bene holden but by sufferance onely. And albeit that in the raigne of *Philip* the Faire this string was againe touched, for the giuing of offices in perpetuities, yet for all that the matter still rested vndecided. But *Philip Valois* reuoked the commissions, and ordained, That from that time forward the royall offices should bee perpetuall; which well declareth them before to haue bene mutable at the pleasure of the kings, albeit that the officers had not forfeited them. And amongst those praises which they giue vnto king *Robert*, one of the greatest is, That he neuer displaced officer, if he had not for some foule and infamous fact before forfeited his office. Whereby it is to be gathered, king *Robert* his auncestours to haue vsed other lawes and customes.

But yet haply it may seeme vnto some, that if offices should still be giuen with that clause, *During the Princes pleasure*, the magistrats would better discharge their charges for the hope they should haue by this meane to continue still in their places, proceeding still from better to better, and bearing themselues vprightly, for feare otherwise to be displaced. Whereunto I agree, in a well ordered Lordly Monarchy: but the daunger should be greater to open such a gap vnder a prince on euery side beset with flatterers, and compassed in with clawbackes: For why, euerie man seeth, that princes so beset, must either make a most filthy gaine and traffique of their offices, or else take such places and power to commaund, from good men, who almost alwaies haue the courtiers life (polluted with all manner of vices) in hatred and detestation. Besides that this bestowing of offices during pleasure, fauoureth somewhat of tyranny, or of a Lordlike gouernment, rather than of a Royall Monarchy; which (so much as possible is) should by lawes, and not by the princes will and pleasure onely be gouerned: So as many a Lordly Monarchie, where the subiects being naturall slaues adore and feare their soueraigne prince, as a god come downe from heauen, accounting his commaunds as the lawes of nature it selfe. Whereas in a Royall Monarchy, where the subiects are as children, it is needfull to rule and gouerne all things by law, as much as possible may be: for otherwise if the king shall without cause exclude some one more than some other from some office or preferment, he that should bee so excluded should hold himselfe iniured, and so rest discontented with his prince; who ought rather to be beloued than feared of his subiects: which to bee, he ought to take away all occasion of discontentment that men might haue against him; and better meanes is there none, than to leaue all that may be to the disposition of the lawes and customes, no man so hauing iust cause to complaine of the prince.

The learned *Budeus* who was of opinion that it were best to haue the magistrats and offices still changeable, without hauing regard vnto the law made by *Lewes* the xi. hath holden, That in auncient time the Presidents and counsellors of the parliament of Paris were but annuall: and that the solemne oath which they still take the 12. day of nouember, and the letters patents which they still are to haue from the king for the opening of the Parliament, show sufficiently that their estates were not perpetuall, but still at the pleasure of the prince to bee reuoked, and so to bee by them holden but by

sufferance;

That offices in a royal Monarchie are rather to be bestowed by order of law, than by the Princes will & pleasure onely.

The erection of
the parliament
of Paris.

A sufferance: and so by these reasons drew many to be of the same opiniō with him, who had they but turned ouer the records of the court, and of the chamber of accounts, they should haue found that that Parliament which before was ambulatorie & moueable, and which had no power but by commissiō, was by *Philip* the long ordayned to be an ordinarie Court, with ordinarie power, circuite, and iurisdiction; in the erection whereof was expressed that it should still haue therein one or two Presidents, of whom the first was the Earle of Burgundie the kings nie kinsman, as in like sort the President in the Imperiall chamber, is alway one of the princes of the Empire: And so for a long time also the President of the court of Paris was still a martiall man and not a gowne man as he now is: and euen yet at this present the Great Prætor of the court of Paris, whom we call the chiefe President, is still honored with the qualitie and title of a martiall man, as of a knight, or as the Latins call it *Miles*, or a souldiour, although he neuer drew sword: which title the other iudges of that court haue not, who then were but three score, but now are an hundred and fiftie. Whereby it is plaine the court of Paris so founded to haue an ordinarie and perpetuall power, neither to haue need of the Princes annuall rescripts, or letters patents for the disciding and determining of controuersies. Howbeit that king *Henry* the second comming into the Parliament for the publishing of certaine Edicts and lawes, which in that court could hardly find passage (hauing it put into his mouth by certaine flatterers) said openly, That the Parliament had at all no power, if it pleased not him by sending

C of his letters Patents euery yeare to giue opening vnto the same; which his speech astonished many. But certaine it is that the letters patents which are sent to this end, and the annuall oath which the Presidents and Councelours take, is but a matter of formalitie and custome, necessarie at such time as the parliaments were not holden but by commissiō: But afterwards that they were erected into the forme of ordinarie courts, such auntient solemnities are no more necessarie: for why the annuall Magistrats are to take an annuall oath; whereas they which are perpetuall Magistrats are to take it but once for all, without any needlesse reiteration of the same. So the continuall Roman Magistrats euery yeare tooke their oath, for that their power was but annuall: whereas the Senators tooke it but once for all, for that their dignitie was perpetuall and

D during the whole time of their liues. The same might be said of the forme of the commissiōs and decrees of that court, conceiued vnder the name and seale of the king, and namely of the letters missiue of the court: which although they bee conceiued in the name of the court, are yet neuertheless sealed with the little royall seale with the flowre deluce: howbeit that all the other magistrats, seneschals, bailiefes, prouosts, and gouernours of countries, hauing power of ordinarie commaund or by commissiō, direct the same vnder their owne names, and their owne seales; which is yet retained of the auntient forme, euer since that the parliament was but the kings priue councell, which councell for that it had no ordinarie power, did nothing of it selfe, and the commissiōs are alwaies graunted in the name of the king, as hauing the onely power to

E commaund in his councell, as we haue before shewed. Which forme hath bene euer since followed in the erection of other parliaments, euen vnto the court of Aides, who giue out all their commissiōs, vnder the kings name: which hath moued some to say, That the parliaments haue nothing but an extraordinarie power by way of commissiō onely. Howbeit that it sufficiently appeareth by that which is by vs before said, them to haue an ordinarie and perpetuall power, which they still hold the king beeing dead: Which if it were but a power holden vpon sufferance, (as some would haue it) it should then together with the death of the king take end, as all other powers and commissiōs else doe. But these courts and the ordinarie magistrats thereof, the king
being

being dead neither chaunge their attire, nor vse any mourning garments, or other signes of sorrow: yea that more is, the first confirmations of the new king are alwaies graunted vnto the Courts of Parliament; as hath beene alwaies vsed since the time of *Lewes* the eleuenth, in such sort as that their power is not onely ordinarie, but perpetuall also, not onely in the whole bodies of themselues, but euen in euery one of the members, officers, and ministers of the said Courts of Parliament.

The giuing of
offices during the
princes pleasure
not to be discom-
mended.

And yet for all that is not the manner of those Princes to be discommended, who vnto their Officers and Magistrates giue their power but by sufferance, which they (if cause be) at their pleasure againe take from them, as the kings of England haue vsed to doe. For albeit that the auncient and moderne Commonweales, especially the Popular and Aristocratique (more straitly bound vnto the lawes than are Monarchies) haue their Magistrates and officers for the most part annuall, and that none of them was againe displaced, without iust cause why; yet so it was for all that, that the people sometimes reuoked their former choice made, and placed some others whom they knew to be more fit for the charge they were to vndergoe: as it did in establishing the Dictators and others their Captaines and Gouvernors, reuoking sometimes (as I say) euen their ordinarie magistrates; as it did *Octacilius* the Consul, who at the request of *Fabius Maximus* was remoued from his charge, as a man not sufficient for the managing of so great and daungerous a warre as the State had then in hand. Neither had they for the remouing of their magistrat, regard onely if he had in any thing trespassed, and so deserued to be remoued; but euen vnto the insufficiencie of him also, whither it were knowne or vnknowne when they receiued him into the Estate, or that it were befallen him afterwards; deeming also weaknesse, or age, madnesse, or other like diseases, such as let and hinder mens reasonable actions, to be sufficient also to displace them from their offices. And namely *Lucius Torquatus* chosen the third time Consul excused himselfe before the people for the infirmitie of his eyes; saying, That it was not reason to put the gouernment of the Commonweale into his hands, who could not see but by other mens eyes. But O how many are there of the blind, deafe, and dumbe, not hauing in themselues any light of nature, neither wisdom, nor experience so much as to gouerne themselues, who are not yet content to guide the sayles and tackles, but desire also to lay hands euen vpon the verie helme also of the Commonweale?

That in euery
commonweale
there ought to be
some estates and
magistrats perpe-
petuall.

Now that which we haue said concerning the meane that ought to be kept in the chaunge and continuation of Magistrats and Officers, hath not onely place in royall Monarchies, but euen in Popular and Aristocratique estates also, where the offices almost all, or for the most part, ought to be euery yeare, or from two yeares to two yeares still mutable: as they do among the Swissers, and diuers other Commonweales. Yet neuerthelesse for the preseruacion of the same, there must still be some estates in the Commonweale perpetuall: as namely those whose experience and wisdom is alwayes necessarie for the stay of the rest, such as be the Councillors of estate: And this is it, for which the Senat in Rome, in Athens, and in Lacedemonia, was still perpetuall. And why, the Senators still during their liues held their charge and places: for as the hookes and hinges whereupon great burdens rest, must of themselues be strong and vnmoueable; euen so the Senat of the Areopagi, and of other Commonweales also, were as most strong and sure hinges, whereupon as well all the mutable officers as the whole waight of the Estate and Commonweale rested & reposed themselues. The contrarie whereof is to be done in Monarchies, wherein the greater part, and almost all the estates ought to be perpetuall, except some few of the chiefe and principall: as they doe in the kindome of Spayne, where they well know how to keepe

A keepe this mediocritie or meane proper vnto the royall estate. And so for the same cause the Venetians which haue an Aristocratique estate, make their officers euery yeare chaungeable, and some of them from two moneths to two moneths; and yet neuertheless haue their Duke, the Procurators of S. Marke, the Chauncelour, and foure Secretaries for the Estate, perpetuall; which the Florentines ordayned in their Estate also (after that they were by *Lewes* the xij, deliuered from the most cruell tyrannie of Countie *Valentinus Borgia*) taking order that their Duke should from that time forward be perpetuall, to the intent that the Commonweale before in perpetuall motion and chaunge of all their estates and offices, might yet haue some thing firme and stable whereupon to rest and stay it selfe: which good order being in short time
B after by the most turbulent Florentines abolished, they fell againe into greater tumults and ciuill warres then euer they were in before: whereas if they had had but a perpetuall Senate at the least, and the Senators continued in their charge, (who from six moneths to six moneths were stil chaunged and rechaunged) and had but kept a certaine meane betwixt these two extremities, of generall chaunge, and still continuing of all their offices, their estate had bene much the more assured; neither had their Commonweale bene still so tossed and turmoyled with so many and so great surges of sedition, and tempests of ciuill warres. But these things thus by vs declated, let vs
C now see also whether in a wise and well ordered Commonweale it be good that the Magistrates should be all at vnitie, and of one accord among themselves or not?

CHAP. V.

¶ *Whether the vnitie and concord of Magistrats amongst themselves bee good and wholesome for the Commonweale, or not?*



D His question, viz. Whether it be good that the magistrats and officers of a Commonweale should be of accord, or els at discord and variance among themselves? may perhaps seeme altogether needlesse and vaine. For who euer doubted but that it was alwaies expedient, yea and necessarie too, that the Magistrats in euery Commonweale should be of one and the same mind: to the end that they all together might with one consent and heart embrace and seeke after the publike good: And if so it be (as wise men haue alwaies thought) that a well ordered Commonweale ought to resemble a mans bodie, wherein all the members are vnited and conioyned with a maruellous bond, euery one of them doing their office and dutie; and yet neuertheless when need is, one of them still aideth another, one of them releueth another; and so all together strengthen themselves, to maintaine the health, beautie, and welfare of the whole bodie: but if it should happen them to enter into haired one of them against another; and that the one hand should cut the other, or the right foot supplant the left, and that the fingers should scrape out the eyes, and so euery member should draw vnto it selfe the nourishment of the other next vnto it; it must needs fall out, that the bodie in the end must become maimed, lame, and impotent, in all the actions thereof: euen so in like manner may a man deeme of the estate of a Commonweale, the honour and welfare whereof dependeth of the mutuall loue and good will of the subiects among themselves, as also toward their soueraigne prince. Which sweet vnitie and agreement how is it to be hoped for, if the magistrats which are the principall subiects, and such as ought by their example to bind together the rest, be at variance and discord among themselves? But euen to the contrarie the subiects shall become partakers of the factions of the magistrats, they first nourishing secret grudges, and afterward open

Reasons to show that magistrats ought to be at vnitie and concord among themselves.

committie, vntill that at length all breake out into open ciuill warre, all for the maintenance and vpholding euerie one of them of the chiefe of their factions, to the destruction of the Commonweale: or in case stay be made thereof, and that things fall not out altogether so euill, yet must still publike actions by such ambitious discord of the magistrats be hindred, and the Commonweale sore troubled: whereunto it shall happen as it doth vnto a maid, for whome (as *Plutarch* saith) her sisters enter into such a ielousie and passion, as that desiring euerie one of them to haue her to himselfe, they so in stead of louing and embracing of her, most cruelly rent her in peeces amongst them. And what good successe may a man expect of an armie, or what victorie is to bee hoped for ouer the enemy, where the captaines and commaunders are at discord amongst themselves? or what iustice is to be looked for, where the iudges are diuided into factions? Yea it hath bene oftentimes seene some of them to haue bene of contrarie opinions and aduise vnto others, and that vpon a verie ielousie and hatred they had amongst themselves, and so play as it were at hazard with the life, the goods, and honour of the subiects: as *Agésilas* king of the Lacedemonians (albeit that hee was one of the most famous of them that euer was) to impaire the credit and authoritie of *Lyfander* whome he hated, reuerfed all his iudgements, and gaue sentence quite contrarie, not so much for the iniquitie of the cause (as he himselfe said) as in despight of him his enemy onely. And to make the matter short, most certaine it is, that dissensions and ciuill warres (the capitall plagues of Commonweales) take foot, root, encrease, and nourishment, of nothing more than of the hatred and enmitie of the magistrats amongst themselves. Whereof it followeth the vnitie and concord of them amongst themselves to be vnto the subiects not onely profitable, but euen necessarie also. Which may all seeme right profitable arguments and reasons for the one side.

Contrary reasons
to show that it is
good for the
Commonweale,
that magistrats
should be at dis-
cord and vari-
ance amongst
themselves.

But now they which more subtilly reason of these matters, deeme to the contrarie, the health, and welfare of the Commonweale to be best preserved and kept by the discord of the magistrats. For why (say they) the force and nature of vertue is such, as that it cannot be contrarie vnto vertue; neither that good men, although they bee at neuer so great oddes, can yet be enemies amongst themselves: but being prouoked by the injuries of the wicked their aduersaries, do still wel the more and more encrease and flourish: neither is the valour of worthy men any where more euident and manifest, than when they without bittetnesse contend amongst themselves; and so prickt forward with an honest ambition, and enflamed with the heat of men like vnto themselves, as with a fire, are by the emulation of their competitors incited to take in hand great matters, and so still to overcome their enemies in well doing. So when *Taxilas* king of the Indians had by his ambassadours freely and without resistance offered his kingdome vnto *Alexander* the Great, (then bearing downe all the kingdomes of the East before him) if so be he wanted wealth; and withall refused not to receiue wealth also at his hands, if hee had of it too much: *Alexander* glad of such a match, said vnto him, If we must thus contend and combat together, it shall neuer be said, that you shall take this point of honour from me, as to be accounted more magnificall, more courteous, or more royall, than my selfe: and so gaue vnto him another great kingdome, with an infinit masse of treasure. In like manner *Tullus Hostilius* king of the Romans, said vnto *Metius Sufferius* Dictator of the Albanians, *The ciuill discords which thou obiectest vnto vs, wee deeme them as profitable to our citie; for we strine together, whether of vs shall better or more earnestly fight for the good of the Commonweale.*

Now if contention and emulation be thus good and profitable amongst valiant & good citisens, and wholesome for Commonweales, how much more then ought it to be thought necessarie for most base and abiect men, for the stirring of them vp to vertue,

A tue, and deterring of them from vice. For of all the great profits which men vse to reap from their enemies, none is greater than so to live as that we seeme not to exceed them in vices, or be overcome of them in vertues. But if such discord and contention be both honourable and profitable in a citie or Commonweale, wherein the princes and magistrates are all good men, and strue but for vertue onely; how much more then shall the contention be profitable, where the good strue against the euill? But in case that all the magistrats be euill, then is discord and contention amongst them not onely profitable, but even necessarie also, least otherwise they beeing at vnitie and concord amongst themselves, and in possession of the gouernment, might freely and without feare make hauocke and spoile both of the publike and priuat affaires. In which case it cannot fall

B out better either for the subiects, or for the whole Commonweale, than if they by their mutuall hatred and accusations shall openly detect and lay open vnto the world, their owne filthinesse, their foule extortions and robberies, as the sheepe are neuer more assured, than when the wolues deuoure one another; as it happened saith *Philip Commynes* in England, that whilest the great lords slew or condemned one another, the poore people in the meane while remained safe from their inuasion. Which was the wise counsell of *Cincinnatus*, seeing the Consul *Appius* openly to withstand the people to hinder them for the doubling the number of their Tribunes: Let be (said *Cincinnatus*) for the moe they shall be, the worse they will agree. And right needfull oftentimes it

C was the power of the Tribunes to bee broken and weakned by their owne diuision, when as by the opposition of any one of them, all the proceedings of the rest were so hindered and stayed: And truely *Cincinnatus* therein said wisely, for so the Commonweale stood and flourished, the Tribunes oftentimes being at discord and variencie amongst themselves, which (they being at vnitie and concord) would haue in a moment fallen: and so long it well stood vntill that *Pub. Clodius* a most wicked man, about foure hundred yeares after presented a request vnto the people, which passed into the force of a law, whereby it was ordained, That from thenceforth the opposition of one of the Tribunes should not hinder the proceeding of the rest of his fellow Tribunes. And therefore *Cato* the Censor, the beautier of the Romane wiledome (and one to whome

D was giuen the chiefe prayse for wiledome and vertue amongst the Romans) could neither endure the agreement of his seruants in his familie, nor of the Magistrats in the Commonweale, but slyly and secretly still sowed hatred and sedition amongst them; that so the wicked and offenders might with their accusations as with mutuall wounds fall, and the good so gaine praise. For why, he thought it a thing almost impossible in so great an accord of slaues and of magistrats, but that the one of them should make spoile of the Commonweale, and the other of his priuat substance, especially being in hope, to escape vnpunished, and out of feare for being accused. And therefore doubted not fiftie times to accuse offenders, hee himselfe being also fortie times by others accused: howbeit that he still bearing himselfe vpon the integritie of his forepassed life, and the commendable things by him done, easily auoided all the slanders by his aduersaries against him falsly surmised. Neither was that Commonweale euer after fuller of good and valiant citizens, than it was in his time. Yea the Senat of Rome allotted a great summe of money to *Mar. Bibulus* to buy his Consulship, and the voyces of the people, to the intent to oppose him against *Cesar* his knowne enemy; who had cunningly set

E vp *Luceius* his friend (whome the Senat would haue had excluded) that so hee might doe all things as he thought good, his friend and fellow in office agreeing thereunto. And not to go farther, we haue herefore the witnesse of *Iulius Cesar*, who in his Commentaries saith, The Gaules to haue had a most auncient custome amongst them, to stirre vp their great lords one of them against another, to the intent that the common

Lib. 6.

people (which were as he reporteth but slaues) might so bee safe and free from their outrages and robberies . For so one of them opposing himselfe against another , and euill controlled by the good , and the wicked by themselues ; there should be no doubt but that the Commonweale should so be in much more safetie and assurance , than if they were of one accord among themselues . Whereby it is to be vnderstood, the discord of princes and magistrats to haue alwaies bene vnto Commonweals wholefom : as the meane whereby the wicked (as we said) may by the vertue of the good , or their owne mutuall accusations be weakned . Which seemed a thing profitable not onely vnto the Romans, and our auncestours, but euen vnto *Lycurgus* the wise law giuer also, who therefore himselfe set dissention betwixt the two kings of Lacedemonia, and appointed also, That there should alwaies two enemies be sent ambassadours for the state ; to the intent they should not by their mutuall consent and good agreement betray the Commonweale : but that being at variance, they might still one of them bee controlled by the other . As for that which is said, the parts of mans bodie which represent a well ordered Commonweale, to bee neuer at discord among themselues, is quite contrarie ; for were not the humors of mans bodie much contrarie, a man should quickly perish : the preservation thereof dependeth of the contrarietie of hoar & cold, of moisture and drought, of bitter choller to sweet flegme, of beastly desires to diuine reason ; as also the preservation of the whole world next vnto God dependeth of the contrarietie, which is in the whole and every part thereof . Euen so the magistrats in a Commonweale ought in some sort to be at difference among themselues , albeit that they otherwise be right good men , for that trueth, the publike good, and that which is honest , best discouereth it selfe by that which is thereunto contrarie : and is still to bee found in the middest betwixt two extreames . And it seemeth that the Romans had this principall end before their eyes , ordinarily making choyce of their magistrats that were to bee placed in the same charge , still enemies one of them vnto another ; or at leastwise of quite contrarie humors and dispositions , as is in all their histories to be seene . As when the Senat foresaw that *Claudius Nero* should carrie away the Consulship , an hoar and sturting man, and withall a most valiant and couragious captaine to oppose against *Hannibal* : the Senat (I say) procured to haue ioyned vnto him for his companion or fellow in office *Liuius Salinator* an old captaine , and a man of great experience , but yet as cold and staid , as was the other hoar and terrible , and yet fit to heat the old age of *Liuius*, now a little too cold for the warres : who so ioyned and vnited together , gained a most notable victorie against *Hannibal*, which was the ruine of the Carthaginians , and the preservation of the Roman estate . These two men also afterwards were by the people made Censors together ; who still at discord , noted one of them another of infamie , a thing neuer before seene : and yet they thus still at variance , were in all mens iudgements two of the most famous and vertuous men that then were in Rome . With like wisdom the Romans ioyned together *Fabius Maximus*, and *Marcus Marcellus*, in their warres against *Hannibal*, both of them right great and most expert captaines, but the one of them being a cold , and the other an exceeding hoar man ; the one alway still desirous of battell, and the other still seeking for delay ; the one called the Roman Sword, and the other the Buckler ; the one a fierce warrrier, and the other a long lingerer : by which contrarie humors of these two so great personages the estate was not onely preserved from ruine and destruction, which must needs otherwise vndoubtedly haue ensued, but farre and wide enlarged also . If then the emulation and discord of the most vertuous magistrats be so profitable vnto a Commonweale, what then is to bee hoped for , when the good magistrats shall oppose themselues against the wicked ?

And

A And these reasons may on both sides seeme probable, but what in truerh is to bee resolved vpon, is not so easie to iudge which to do, not onely the qualitie of the magistrats themselves, but the diuers formes of Commonweales, is to bee also considered. And yet I suppose, that in euerie kind of Commonweale it is good that the inferiour magistrats and officers, being vnder the power and authoritie of the greater, should still be at variance and discord among themselves, and that more in a Popular estate than in any other: For that the people hauing none but the magistrats to gouerne them, is most easie to be pilled and polled, if the magistrats bee not one of them by another controlled. And in a Monarchie it is expedient also, that euen the greatest magistrats should sometime be at oddes, considering that there is a soueraigne prince to chastise and correct them; so that hee bee not mad, furious, or a child, or one otherwise subiect vnto another mans power. But in an Aristocratike or Popular Commonweale it is most dangerous, that the great magistrats should bee at discord among themselves, and that especially if they bee not good men, who neuer haue any such contention or debate amongst them, as may hurt the estate or Commonweale: but such as was the honourable difference betwixt *Scipio Affricanus*, the elder, and *Fabius Maximus*: betwixt *Scipio* the younger, and *Cato*; betwixt *Liuius* and his companion *Nero*; or the contention of *Lepidus* with *Fuluius*, of *Marcus Scaurus* with *Catulus*; or of *Themistocles* with *Aristides*: whose notable contention for vertues sake was alwayes vnto the Commonweale wholesome. But if the greatest magistrats in a Popular estate bee euill and wicked men, or that their ambition be founded vpon an euill ground, it is then dangerous least that their differences bee cause of ciuill warres; as it happened betwixt *Marinus* and *Scylla*, betwixt *Cesar* and *Pompey*, *Augustus* and *Marke Anthonie*, *Thucidides* and *Pericles*. And yet much more dangerous such contentions are in an Aristocratie, than in a Popular Commonweale: For that the gouernours, which are alwaies the fewer in number in an Aristocratique estate, and yet commaund the rest, haue still to doe with the people: who vpon the first occasion take vp armes against their lords, if they once enter into quatrels. For a few lords in an Aristocratie are easily drawne into two parts, by the great magistrats, who if they fall into sedition among themselves, as also with the people, it cannot otherwise bee, but that the chaunge of the estate must thereof needes ensue; the leaders of the factions oppressing their enemies: or else the gouernment of the estate falling wholly into one mans hands, which is not so much to bee feared in a Monarchie, whereas the soueraigne prince vnder his power keepeth all the magistrats in awe.

The resolution of
the former question.

But in euerie Commonweale it is expedient and necessarie, that the number of the soueraigne magistrats, or of them which come neere vnto the soueraigntie, should still be odd, to the end that the dissention amongst them might still be composed by the greater part or number of them; and that the publike actions be not by the equalitie of them hindred or letted. And that is it for which the Cantons of Vrie, Vnderuald, Zug, and Glaris (which of all others are most Popular) haue beene glad to make in euerie one of them three soueraigne magistrats, whom they call Amans, & not two, for that the third may easily reconcile two being at variance betwixt themselves: in stead whereof they of Schwits haue foure, as they of Geneua haue also their foure Syndiques, and they of Berne, Lucerne, Friburg, and Solure their two Auoyers: and Zurich, Basile, Schaffhouse, their two Bourgomasters: as some there were which thought it better to haue of such great magistrats moe than foure, and yet in odd number also; as in auncient time the Athenians had their nine Pretors, whome they called Archontas; that so the fewer might still yeeld vnto the rest, or be in number ouercome, which

That the number of the soueraigne magistrats in a Commonweale should still be odd:

cannot be where onely two beare the sway, except they had alternative power to commaund each of them his day by turnes, so as had the Carthaginensians Suffetes, and the Roman Consuls, so as we haue before said. And therefore by our laws also are three appointed for the common receipt, that so the third might still reconcile the other two his companions at difference betwixt themselves, or els by ioyning himselfe to one of them, make that part the greater. Which odd number of great magistrats is more necessarie in a Popular or Aristocratike estate, than in a Monarchy; and the discord and dissention of them lesse in this state to be feared than in the other. For that as almightie God the Father of the whole Fabrike of the world, and of nature, doth with an admirable concord and agreement gouerne this world, composed of the contrarie conuersions and motions of the celestiall orbes among themselves, as also of the different natures of the starres and elements, and of the contrarie force and power of planets and of other living creatures: euen so also a king (the lining image of God himselfe the prince of all things) should of the dissimilitude of magistrats, in some sort, at variance among themselves, keepe and maintaine the welfare of his subiects and people. And as in instruments, and song it selfe, which altogether out of tune, or all in the selfe same tune, the skilfull and learned eare cannot in any sort endure, is yet made a certaine well tuned discord, and agreeing harmonie, of most vnlike voices and tunes, viz. of Bases, Trebles, and Meanes, cunningly confused and mixt betwixt both: euen so also of the mightie, and of the weake, of the hie, and of the low, and others of the middle degree and sort betwixt both; yea euen of the verie discord of the magistrats among themselves ariseth an agreeing welfare of all, the straitest bond of safetie in euerie well ordered Commonweale. So *Cæsar* making sharpe warre vpon them of Beauuis, hauing in his armie two captaines deadly enemies one of them vnto the other, commaunded them to turne all that their hatred vpon their enemies, who so in his verie sight with great emulation gained a notable victory over their enemies, which their dissention had giuen vnto their enemies, had they not had a generall aboue them, who kept them both in awe. Which as it oftentimes happeneth, so did it also chaunce to *Lewes* the twelfth the French king, who gained the estates of Bolonia, and ouerthrew the Popes armie, by reason of the discord betwixt the cardinall of Paue, and the duke of Vrbin, who through ieaousie of one of them against the other, so hindred & entangled themselves, as that they gaue victorie vnto the French: into which daunger the Roman estate was like to haue fallen, by the contention risen betwixt *Fabius Maximus*, and *Minutius* the Roman generals, which had vndoubtedly giuen *Hannibal* the victorie, and the Romans the ouerthrow, had not *Fabius* for the good of the Commonweale forgot his dispicasure, and by his valour deliuered his rash companion together with the Roman armie, from a most certaine and present destruction.

Wherefore the contentions of the greater Magistrats are most daungerous in a Popular estate or Commonweale, (where there is no other head to commaund them but the multitude) and especially if he seeke how to serue their owne proud and ambitious desires, rather then the common good. And therefore the Roman Senat seeing *Marcus Lepidus*, and *Q. Fulvius* mortall enemies chosen Censors together, went vnto them in great number to perswade them now at length for the Commonwealth sake to become friends, or at least wise to suspend their enmitie, so the better to attend vnto their office, being the fairest and of greatest importance in the whole Commonweale. The like whereof we read to haue beene often done by the Senat, in setting the busie Tribunes, and proud Consuls agreed, at such time as their dissentions seemed to tend vnto the daunger of the State. But as it is not good that the greatest magistrats in a Popular estate should be too great enemies; so also is it not conuenient that they

The contention of the great magistrats most dangerous in a popular Commonweale: and their too great friendship to be no lesse perilous also.

- A** they should be too great friends, especially if they be not good men, and that for the reasons by vs before alleaged. Which was the cause that the yonger *Cato* seeing *Pompee*, *Cæsar*, and *Crassus* so straitly allied together, and that they so conioyned, were too strong for all the rest of the people; cried out aloud the Commonweale by such combyning of the great ones to be bought and sold; foreseeing as it were out of a watch tower the stormes and tempests thereof then at hand. Yet true it is that of two extremities it is better that the great Lords and magistrats in a Popular or Aristocratique estate should be of one accord then at discord: for that being of accord, they will alwaies like better to commaund others, and so in some sort or other to preserve the Estate such as it is, than together with the Commonweale, quite to overthrow their
- B** owne power, whereunto their discord would bring them, when they had once given sayles vnto the tempest. In such sort as *Liuius* said of *Calpurnius* the Campanian: *Improbum hominem, sed non ad extremum perditum, qui mallet incolumi quàm eversa patria dominari*, A wicked man (saith he) but not altogether desperate, who had rather to rule ouer his countrie yet standing vpright, then ouer the same ouerthrowne. So albeit that *Mar. Tullius* said, The three-headed alliance of *Cæsar*, *Crassus*, and *Pompee* to be a thing greatly to be feared: Yet when he saw *Crassus* the moderator with the Roman legions flaine in *Chaldea*, and *Iulia Cæsars* daughter *Pompee* his wife by vntimely death taken away, he cried out: *Vtinam Cn. Pompei, amicitiam cum Cæsare nunquam coisses, aut nunquam diremisses*, I would to god, O *Pompee*, (said he) thou haddest either neuer made friendship with *Cæsar*, or hauing once made it, haddest neuer broken it. For why their friendship much diminished the Popular power, but their enmitie altogether ruined the same; one of them being in no wise able to endure his equall, nor the other his superiour, vntill that so by ciuill warre the state was quite at length ouerthrowne, and *Cæsar* become master of all. And as for that which *Cæsar* writeth, our auncestours the auntient Gaules to haue thought the dissention of their princes and great gouernours to haue beene profitable vnto their estates, I can hardly be perswaded therein: when as by the report euen of *Cæsar* himselfe, the dissention of the princes and of the estates of Fraunce, (then for the most part gouerned by Aristocracies) wrought their owne destruction; some of them praying aide of the Germans, and some of them of the Romans, being long a prey both to the one and to the other, and in the end vnto the Romans alone as the onely conquerors. Neither is it true the mutuall slaughters of the Nobilitie of England to haue beene commodious and profitable vnto the comminalltie and inferiour sort, as *Philip Comines* writeth; yea at such time as I was Embassadour in England, I vnderstood by some of the inhabitants there, them to feare nothing more then the factions of the Nobilitie and their ciuill discord: for the better appeasing and reprefsing whereof they haue often times vsed to assemble the high court of Parliament, whereunto all the States are assembled. And thus we haue declared in what sort the Magistrates ought to behaue them selues towards their Prince, as also how they ought to beare them selues one of them towards an other, as also towards other priuate men; and whether they ought to be at vnitie among them selues or not. Now it remaineth for vs briefly to show also, how the Prince ought to behaue him selfe towards his subiects; and whither it be expedient that he should him selfe iudge them, or be him selfe conuersant among them.

Philip. 2.

CHAP. VI.

F

¶ Whether it be conuenient or expedient for the Maiestie of a soueraigne Prince to iudge his subiects him selfe, or to be much conuersant with them.

Kings first established to iudge his subiects.



Reasons to show that princes themselves in person ought to administer iustice vnto their subiects.

The great good that ensueth when princes in person themselves do iustice vnto their subiects.

IT may seeme vnto some that this question not before reasoned of, hath not in it any doubt, and that it is not needfull for vs farther to enter there into, considering that all the auntient and wise polyticians are of accord, that kings were neuer for other thing established than for the administration of iustice, as saith *Herodotus* speaking of the Medes; and *Cicero* likewise of the Romans; as also we read that the first kings of Greece, *Æacus*, *Minos*, and *Radamanthus* had no title more honorable then the title of Iudges; who for they with great equity administred iustice, are by the Poets reported to haue obtayned of *Iupiter* an euerlasting power & office for iudging of the ghosts in hel. And albeit that *Homer* calleth princes the pastors, or feeders of the people. Yet so it is that the title of Iudges hath long time after him continued in the person of the princes of Athens, who had the soueraigne government for ten yeares. And not onely the princes of the Medes, the Greeks, and Latins, but euen the Generals also, who were as soueraignes amongst the Hebrewes, had no other title then the title of Iudges: And at such time as they demaunded of *Samuel* (now wearied with age) a king, they ioyned thereunto, that he might iudge them, as other kings did their people: Which sheweth sufficiently that the principall charge which they had, was to doe iustice themselves in person. And the principall reason that might moue the princes themselves to iudge the subiects, is the mutuall obligation which is betwixt the Prince and his subiects: For as the subiect oweth vnto his lord all duety, aide, & obedience; so the Prince also oweth vnto his subiects iustice, guard, & protection: so that the subiects are no more bound to obey the prince, than is the prince to administer vnto them iustice. Neither is it sufficient to haue it done by an other man, as by the Magistrate at the Princes command, seeing that the subiects being commaunded to yeeld their faith and obedience vnto the prince, cannot do it by their Deputies, but onely by themselves in person; and that this obligation betwixt the Prince and the subiect is reciprocall. Howbeit that it is lesse inconuenient that the vassall should giue his faith and homage vnto his Lord by his deputie, than the Lord to do him iustice by his officer, for that the obeisance of the subiect in this case cannot be called in doubt: whereas the subiect hath no warrant that the magistrat or officer shall not suffer himselfe to be by bribes corrupted, which the Prince will not do, who is therefore still aunswerable before God, vnto whom he cannot say that he hath therewith charged the conscience of his Iudges, his owne thereby being not discharged. Besides that it much and notably concerneth Commonweales, that they which hold the soueraignty should themselves doe iustice: that is to wit, the vnion and amitie of the Princes with the subiects, which cannot better be nourished and maintained than by the communion of one of them with the other, which is lost, and brought to nought, when the Princes do nothing but by their magistrats and officers: For so it seemeth vnto the subiects that their princes disdain and contemne them, a thing vnto them more grieuous than if the prince should himselfe doe them wrong; and so much the more heauy, as a contumelie or disgrace is more hardly to be borne, than is a simple wrong or iniurie. Whereas to the contrarie when the subiects see their Prince to present him selfe in person vnto them to do them iustice, they go away halfe contented, albeit that they haue not that which they desired, or at least wise they will say, The king hath seene our request, he hath heard our difference, he hath taken the paines to iudge our cause. And if so be that the sub-

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iects

A iects be by their king seene, heard, or vnderstood, it is almost incredible, how much they are rauished with contentment and pleasure, if the Prince be neuer so little vertuous, or haue any other commendable qualitie in him. Besides that there is no greater meane to giue authoritie vnto his Magistrats and officers, and to cause iustice it selfe to be both feared and reuerenced, than to see the king him selfe sitting in his regall throne to do his subiects iustice. Moreouer the Magistrats often times doe wrong and iniurie vnto the subiects by standing vpon the nice clauses, words, and sillables of the law, which they dare not passe, as being bound and subiect theunto. And in case that they make any conscience to iudge according to the strictnesse of the law, they must yet first send their reasons vnto the Prince, and attend his aunswere, and exposition of his Edicts and lawes made according vnto the opinion and aduise of his other officers; who will often times see the suters purses bothom; in such sort as that many sutes liue longer than the parties and suters them selues, yea and some times are for euer suspended. Whereas if the Prince him selfe in person shall vouchsafe to iudge the matter, he which is the liuing law, and aboue all ciuill lawes, being accompanied with his Counsell shall doe both good and speedie iustice, as hauing respect vnto the verie ground and equitie of the matter, without farther standing vpon titles and formalities. By this meanes also so many oppositions, appeales, ciuill requests, remouing of causes, infinite decrees, one of them vpon an other, which make sutes immortall, should cease, and iustice without stay or let take course, no appeal being to be made from the Prince. Ioyning hereunto also that the Commonweale should so be relieved of the great charges and wages which it alloweth vnto Iudges, and of their particular fees which are aboue measure heauie; besides the bribes and presents which must be giuen, which often times passe the ordinarie fees, in such sort as that the subiects in steed of hauing good and speedie iustice (which the Prince oweth them) are constrained to paie for it as for the most precious thing in the world: howbeit that oftentimes it happeneth, that the marchant is well paid, and yet the marchandise by him deliuered is right little or nothing worth. And yet there is another verie considerable point also: which is, That the parties contending are sometimes great and honourable, as that they would neuer answere before many iudges, in discredit for their vnworthinesse, iniquitie, or other like qualitie, whereby it oftentimes commeth to passe, that they end their suits and differences by combats and dynt of sword: whereas the Prince in presence might euen with the twinkling of his eye set them agreed. And were it that no other greater profit were thereby to come vnto the Commonweale, then that the prince by vse and exercise of iudgement should haue the force of right and iustice throughly engrafted in his mind; what greater or better thing could there bee wished of almightie God either for the prince or for the subiects, than that hee might most curiously and seriously learne daily to administer iustice? The knowledge of other artes and sciences, which is it selfe a thing most royall, and so most proper vnto kings. For as for the knowledge of armes, and of martiall affaires, it is well fitting a Prince against his enemies, whereas iustice is most necessarie for him at all times, and in all places, whether it be in peace or warre.

But not to rest altogether vpon reason and arguments, we will also vse the examples herein of the most wise and noble princes. VVhat man was there amongst men to be in wisdom compared with *Salomon*? And yet we read, That the onely prayer that he made vnto God, was to obtaine wisdom wherewith rightly to iudge his people, which his prayer was so acceptable vnto God, as that he seemed therefore most plentifully, and to the great worlds wonder, to haue powred out vpon him all the treasures both of wisdom and of knowledge; that so all men might vnderstand God not one-

Examples of great Princes, who themselves in person administered iustice vnto their subiects.

A notable example of the great emperor Adrian for the doing of a poore old woman iustice.

ly to haue inspired him with wisdom, but also that the office of right iudgement was euen by God himselfe giuen vnto kings; who was also for experience in great affaires, and politike wisdom like vnto the Great *Augustus*? And yet neuerthelesse wee read that he without ceasing was still busied in the administration of iustice, insomuch that euen when he was sicke, he caused himselfe to bee carried in his horselitter to doe iustice. Howbeit that that was the ordinarie vacant time of the Roman emperours, who for the administration of iustice were commended aboue all the princes of the world, euen so farre, as that a poore old woman to whom the Great emperor *Adrian* refused to aunswere her preferring vnto him a request, excusing himselfe, That he was not then at leasure, *Raigne no longer then* (said she) *but discharge thee of thy charge thou bearest*. Wherunto the emperor hauing not what to answer, presently staid & did her iustice. Now then if so great a prince (whose empire was bounded with the same bounds that the course of the sunne was, and troubled with so great affaires) acknowledged the bond, To doe his subiect iustice: what ought they then to doe which hold but the scantlings of that great empire? Ought not euerie one of them to enforce himselfe in his owne person, and to studie with all his power, how to imploy himselfe for the doing of iustice? considering that (as *Plinie* the yonger saith) there is no more noble Philosophie, than to enreat of the publike affaires, and to doe iustice, putting in practise that which the Philosophers haue taught.

To be necessarie for a prince to vnderstand of the affaires of estate.

Now if the knowledge of that which is right, and the administration of iustice, bring so many & so great profits vnto princes; how much greater shal the same then be, if they shall by themselves handle but those things onely which are proper vnto their soueraigntie? For as for the rest of the ciuill affaires, a prince may well commit them vnto the magistrats: but the rights of soueraigntie, and the deciding of them, hee can in no wise put off, but together with the soueraigntie it selfe. Surely they are verie blind, deafe, and dumbe, which neuer but by other mens eies see, and by other mens eates heare, and by another mans tongue, and that oftentimes a straunge tongue also, speake and talke of such things as are theirs, and most proper vnto themselves. Now wee haue before shewed also, not by the examples of straunge nations onely, but euen by the examples of our auncestours also, the idle slothfulnesse of kings, who committed the manning of all their affairs vnto their domesticall seruants, to haue thereby brought both themselves and their posteritie vnto destruction.

Reasons to show that it is not meet for princes themselves in person to administer iustice vnto their subiects.

These arguments and reasons thus by vs before alleaged, make a faire show vnto them who sufficiently vnderstand not, nor by experience know not, the secrets of soueraigntie, and hidden knowledge for the maintaining of maiestie: But vnto me looking neerer into the matter, they are not sufficient to resoluethis question, nor to maintaine, That a prince ought in person himselfe to administer iustice: Yea vnto mee it seemeth not onely not necessarie, but not profitable vnto the subiects, the prince himselfe to bee vnto them the minister of iustice. True it is, that for them so to do, it should bee not onely profitable, but euen necessarie also, if the princes were themselves such as *Scylax* faigned vnto himselfe the kings of the Indians to be; that is to say, so much better than their subiects, as the gods are aboue men. For what can bee more glorious or more royall, than to see a prince by himselfe in the open sight of the people with great integritie and vprightnesse iudge and decide causes, to giue rewards vnto such as haue well deserued of the Commonweale, and to inflict punishment vpon the wicked and offenders. For he must needs be a good and wise man himselfe, which is not delighted but in the companie of good and wise men: and he must needs excell in integritie and iustice, who himselfe with great equitie administred iustice. But shall we therefore say, that vicious princes ought to thrust themselves into the sight, and so to communi-

A cat their vices vnto their subiects? the least vice in a prince being like vnto a canker in a faire face: and so to doe, what were it els, than in the sight of the people to set vp an example of vice, to lead men, to draw them, yea & euen to enforce them to be naught?

For there is nothing more naturall, than for the subiects to conforme themselves vnto the manners, vnto the doings and sayings of their prince; there being neither gesture, action, nor countenance in him, be it good or bad, which is not marked, or counterfai-
Such a prince,
such a people.

B himselfe, and after by *Plato*, *Cicero*, *Linie*, and *Cassiodore*, repeated as an infallible rule, *That such as the prince of a Commonweale is, such will the people also be*. Yea *Theodoric* king of the Gothes, writing vnto the Senat of Rome, passeth further, vsing these words, *Facilius est errare naturam, quam dissimilem sui princeps possit Rempublicam formare*, An easier thing it is (said he) for nature to chaunge her course, than for a prince to frame a Commonweale vnlike vnto himselfe. And though examples need not in so plaine a matter, yet we haue seene king *Francis* the first, in this realme, and *Mansor*, surnamed the Great, emperour of Affrike and Spaine, who both two in diuers times, and in diuers places, began to haue learning and learned men in estimation; when suddenly the princes, the nobilitie, the cleargie, yea euen the souldiors and artificers, with all the people

C in general, gaue themselves so to learning, as that there was neuer found so great a number of learned men in all languages, and in all sciences, as in their time. Seeing therefore that the princes example is of so great force and power for the conforming and chaunging of his subiects manners, either to good or bad; great heed is to bee taken, that the prince, except he be by nature wel, and by education better framed and instructed, come not much abroad for the people to behold and imitat: but if he be euill & wicked, then by all meanes to be as a popular and common plague kept out of the sight of his subiects. Yet haply some man may say, That an euill prince should not therefore abstaine or withdraw himselfe from publike affaires, or from the iudgement place or Senat; for that no man was so bad, but that he hath in him some vertues or commendable quali-
That an euill
prince ought not
much to come
abroad for the peo-
ple to imitat his
vices.

D tie; or which cannot at leastwise dissemble some of his vices: of which his vertues & vices, his subiects may make choyce, in such sort as that they may easily decline the one, and embrace the other. But in mine opinion and iudgement, they will rather imitate his vices, than his vertues: and so much the rather, by how much the corrupt nature of man is more prone and enclined vnto vice than vnto vertue; as also for that there is but one most strait way which leadeth vnto vertue, wheras on both sides there are innumerable crooked by-ways and turnings vnto vice, whereinto they may more easily fall, than into the straight and right way of vertue. In *Alexander* the Great were many most rare and heroicall vertues, yet so it was, that he greatly blemished the beautie of them, as also of his other noble acts, by an euill custome that hee had to bee

E drunke; wherein he tooke such delight, as that hee propounded a talent as a prize vnto him which could drinke most: in which beastly contention and strife sortie together with him which had gained the prize burst and perished; hee himselfe almost looking on. *Mithridates* also king of Amasia, imitating of *Alexander* the Great herein, surpassed him, that hauing set vp a prize for him that could eat and drinke most, hee (as *Plutarch* saith) gained the foule victorie in both (if to bee overcome of intempe-
600 Crownes.

The subiects still
readier to imitate
the vices than
the vertues of the
prince.

Princes of all o-
thers most hard-
ly to counterfeite
vertues, or to dis-
semble their vices

fires, to reſtraine their luſts, to bridle their affection, which he that knoweth not how F
to do, ſhall neuer be a good or cunning diſſembler. *Dionyſius* the younger moued with
the ſame and vertue of *Plato*, cauſed him to be ſent for vnto Syracuſa, who had no ſoo-
net begun to taſt of the wiſedome, vertue, and learning of the man, but that in a mo-
ment all miſtreles, players, drunkards, bawds, harlots, and ſuch like, were quite vaniſhed
out of the princes ſight, and the court ſo ſuddenly chaunged, as if it had bene from hea-
uen inſpired. But for that *Dionyſius* had but chaunged his countenance, & not his mind,
and caſt out the allurements of pleaſures, but not pleaſures themſelues; hee could not
long diſſemble his vices, eithers yet endure *Plato*, who was no ſooner gone out of the
court, and diſembarked out of Sicilie, but that the prince forthwith returned vnto his
woonted vices, by him before for a while forborne, but not quite forſaken: at which G
verie inſtant miſtreles, dauncers, harlots, bawds, and ſuch other vermine of the court,
which had before bene driuen out were againe recalled. So much power the prince
hath at his pleaſure to chaunge and turne the harts of his ſubiects, but alwayes rather
vnto vices and vanities, than vnto vertues. But I doe more willingly remember our
own domeſticall examples than others; king *Francis* the elder, for the healing of a
wound he had receiued in his head, cauſed his head to be polled, when ſuddenly after
all his houſhold ſeruants, all the princes, all the nobilitie, the magiſtrats, the artificers,
and people of all ſorts in generall, cauſed their heads to be from that time forward pol-
led alſo, inſomuch that if any did from thenceforth uſe the old faſhion, and account it H
an vndeſcent thing to be polled, he was therefore of all men derided: whereas before
from the beginning of this kingdome, it had alwayes bene the marke of the kings, nei-
ther was it lawfull for any but for the nobilitie and Senators, to weare long haire: all
the reſt of the meaner ſort being befor compelled to poll themſelues as ſlaues, vntil that
Peter Lombard biſhop of Paris (for the power and authoritie which biſhops then had
aboue kings) obtained, That it might be lawful for the common people to weare long
haire alſo. True it is, that the flatterers of princes helpe much to conſorme the maners
and faſhions of the people vnto thoſe of the princes, they ſtill rather counterfeiting
than imitating euen the vices and defects of the prince, whome if they ſee laugh, they
laugh alſo, although they know no cauſe why; if he be lame, they halt downe right al-
ſo. *Alexander* the Great, and *Alphonſus* king of Aragon, beeing both wrie necked, I
the one by nature, and the other by cuſtome, the courtly curtes to counterfeite that their
deformitie, held their neckes alſo awry; as the Courtier, and *Plutarch* in the life of *Pyr-
rhus* writeth. Seeing therefore the nature of man is enclined to follow the vice of the
prince, were it not euen to vndoe a people, and to ruinate an eſtate, to thruſt ſtill into the
ſight of the people a prince euill brought vp; and a portraitor of vices for them to imi-
tat? And yet it is more dangerous for that for one vice which the prince hath, oſten-
times thoſe of his traine haue an hundred, who euerie where as they paſſe, may alter &
marre the good diſpoſition of the people; or like ſwarms of flies & caterpillers, who
hauing deuoured the leaues, and fruit, do alſo leaue their ſpaune behind them, able to
infect the fields and trees be they neuer ſo cleane and fruitfull.

But ſuppoſe we the prince not to be vitious (a rare gift, and by the goodnes of God
giuen vnto men, when as in euerie age a tollerable prince is ſcarcely to bee found) but
to be of great vertue and perfection, yea euen a man without fault (howbeit that there
is a great ſpace betwixt them which are endued with vertues, and them which are with-
out vices) yet is it almoſt a thing impoſſible, but that ſome thing ſhall at one time or
other fall from him, which wel noted may ſeeme vnto the people fooliſh or ridiculous:
wherein much is derogated from the reputation and dignitie which the ſubiects ought
to haue of him. But let vs ſuppoſe that alſo, him to be neither a man euill giuen, nor
fooliſh,

- A** foolish; neither yet so to seeme, but to be a man endued with great vertues, and of good education; yet so it is that too ordinarie conuersation, and too great familiaritie of the subiects with the prince, much diminisheth his maiestie, and withall engendreth a certaine contempt of him: of which contempt proceedeth the disobedience of the subiects vnto him and his commaunds, to the ruine of the whole estate. And now againe to the contrarie, if the prince to maintaine his maiestie shall ordinarily show himselfe vnto his subiects, in his greatnesse, with a terrible port, it may be that so hee may bee the more of them redoubted: but it is dangerous least he should be therefore the lesse loued. Whereas the loue of subiects towards their soueraigne is much more necessarie for the preseruacion of an estate, than is feare; and so much the more, for that loue cannot be without feare to offend him whome wee loue; whereas feare may well be, and most often is without any loue at all, men commonly hating him whome they feare, and as occasion serueth still seeking to take him out of the way.

Too much familiarity of a prince with his subiects, not good; and alwayes to be feene of them in his maiestie, a thing vnto them dreadfull.

- And truly vnto me more deeply considering of the matter, almightie God (the soueraigne prince of the whole world) seemeth to haue shewed a short way vnto worldly princes (the true images of himselfe) how they are to communicat themselves vnto their subiects, to be of them both beloued and feared: For he communicateth himselfe vnto men but by visions and dreames, and that but to a few of the elect & most perfect of them also, men of great integritie of life. But when hee with his owne voyce published the Ten Commandements, he caused his fire to bee seene heauens high, and the mountaines to tremble with thunder and lightning, with such a dreadfull sound of trumpets, that the people stricken with feare, and falling flat vpon their faces, besought him, That hee would no more from thenceforth speake vnto them himselfe (for that otherwise they should all die) but onely to commaund such things as he pleased by his seruant *Moyse*. So that that people of all others most chosen, had but once almightie God (who sheweth himselfe but in spirit to be seene) himselfe sounding forth his lawes; when as yet for all that to allure men the more feruently to loue him, hee at all times, and in all places and countries, doth with great loue, and eternall bountie, foster and cherish all mankind, yea indeed all sort of liuing creatures, powring continually vpon them his great and infinit fauours, larges, and bountie. If therefore the wise prince ought in manning of his subiects, to imitate the wisdom of God in the gouernment of the world, he must but seldome times come into the sight of his subiects, and that with such a state and maiestie, as best agreeth with his wisdom, power, and greatnesse, and yet make choice of some few most wise and worthy men, with whome to communicat his secret counsels, and by them to declare his will and pleasure vnto the rest, and yet incessantly to heape vpon his subiects his graces and fauours; & with great wisdom and power to protect and defend them against their enemies. In the booke *De Mundo* (or of the world) dedicated to *Alexander* the Great (and without cause ascribed to *Aristotle*, as fauouring nothing of his stile) a comparison is made of a soueraigne prince vnto God; as that the great king of Persia was stil resiant in a proud and stately pallace or castle, compassed in with three high walles, full of all pleasures and delights, neuer stirring abroad, or shewing & acquainting himselfe but with some few of his friends; who yet neuertheless by fiers and watches set vpon high places, stil in one day vnderstood and knew all the enemies of his empire, euen from the farthest parts of the East Indies, vnto the straits of Hellespontus. And yet neuer was there any princes vnder heauen more honoured and reuerenced, or better beloued of their subiects than they: or whose commaunds were more iust vnto their subiects, or more of their subiects regarded, or that longer preserued their empire, power, and state. So thole princes also which giue themselves ouer, and became slaues vnto their vaine pleasures

How princes are to behaue themselves, to be of their subiects both beloued and feared.

and delights, most commonly vsed to withdraw themselves from the sight of the multitude into some secret places, that so they might at more libertie glut themselves with all kind of pleasures. For so *Tiberius Caesar* of all others the most cunning dissembler, made choyce of a most desert island, wherein he for many yeres liued in all kind of voluptuous and beastly pleasures. Which was of him right filthily done, but yet more wisely than they who with the most odious smell of their loathsome pleasures pollute and defile as well publike as priuat places: who besides that they offend more by giuing of euill example than by the wickednesse it selfe by them committed, doe also in the minds and conceits of men engender a neglect and contempt of themselves.

How a prince is to frame his countenance and speech when he sheweth himselfe vnto the people.

Wherefore a prince that wise is, so oft as he should show himselfe vnto the people (which he should most seldome do) should so prepare himselfe, as that he may vnto all men seeme euen in his face and countenance to carry with him a certaine state and maiestie, yet still mixt with modestie, but especially in his speech, which should alwaies be maiestically and sententious, and in the manner of phrase, something different from the vulgar. Which if it shall seeme something hard for the prince to performe, or that he haue not the grace of speaking, it is best for him to speake little, or els altogether to be silent: For that we know men in so great matters, as to contemne, or feare; to hate, or loue; to be stil no lesse with opinion, than with any certaine reason, led & moued thereunto. For if the prouerbe of the wise Hebrew be true, *That the foole himselfe in holding his peace is accounted wise*, how circumspect and aduised ought a prince to be, when hee openeth his mouth to speake in publike place? considering that his words, his countenance, and lookes, are oftentimes accounted and esteemed of as lawes, oracles, and decrees. Wherein *Tiberius* the emperour, least he should in any thing offend, brought in a new fashion, as to be spoke vnto, and also to giue aunswere by writing, for what matter soeuer it was, *Moris erat* (saith *Tranquillus*) *eo tempore principem etiam presentem scripto adire*, The manner (saith he) at that time was, with writing to goe vnto the prince euen then present; to the end that nothing might escape which had not before bene well thought vpon. For it is not possible but that they which speake much in open assemblies, as in the Senat, or before the people, must many times erre: which done by a prince, shall breed contempt, or at leastwise cause him to bee the lesse esteemed: so that a Grecian (I wot not who) not vnfitly said, *That a prince if hee bee wise should vnto the people, or in open audience no otherwise speake, than hee would doe in a Tragedie*.

But I know that some of contrary opinion vnto mine, wil say, Is it not the true estate and office of a prince, to doe iustice vnto his people? to heare the complaints of his subiects? to see the requests of his own? and by the mouth of euery one to vnderstand of their iust griuances, which are commonly suppressed, or at leastwise disguised by another man? And why then should the prince hide himselfe from his people? talke but with few, and those of his most inward friends also? or aunswere nothing vnto many, of right asking him of many things? yea not to be willing so much as to heare his subiects speake? Things altogether absurd, and not becomming the maiestie of a soveraigne prince. Whereunto I say, that mine opinion is not, that he should so hide himselfe, as not at all to show himselfe; as the kings yet doe euen at this present in the East Indies, and namely the king of Bornei, who speaketh not vnto any but vnto his wife and children; neither is seene of any, but still speaketh vnto others by one of his gentlemen through an hole by a reed or cane which he holdeth in his mouth, as he did vnto the king Catholike (as we read in the histories of the Indies:) but my meaning is, that he should not be much in the assemblies of the people, neither easie to bee spoke withall of all men, not to vse much discourse with his subiects, except with such as are neere

The maner of the kings of Bornei.

How a prince ought but seldome times to conuerse with his subiects.

- A** neere vnto him, or of his familiar acquaintance; not to take pleasure in iests and taunts, in play, or other publike exercise: For that by such things the princes maiestie and reputation, which ought by all meanes to be whole and vntouched, is greatly impaired and lightned: and so much the more, by how much the prince is of greater estate and maiestie: whereunto good and especiall regard is alwayes to be had. For it were not seemely for a pettie prince in his estate to counterfeite the great kings of *Æthiopia*, of *Tartarie*, of *Persia*, or of *Turkie*, who suffer not their subiects so much as to looke directly vpon them, neither are so much of them redoubted and feared for their power, as for the maiesty that they hold when they show themselves vnto their subiects. Howbeit that the kings of *Affrike* hold yet this maiestie more, as in the historie of *Francis D'Aluarez* is to be seene, where hee speaketh of the maiestie of the Great Negus, whome we call *Prester Iohn*: and in the historie of *Leo* of *Affrike*, where hee speaketh of the king of *Tombut*, before whome his subiects appeare not, but vpon their knees, with dust vpon their heads.

Now if any man shall say, That the kings of the East, and of the South are thus to be honoured, for that their subiects are of an abiect and a seruite nature; but that they of the North, or of the West, whose subiects be of greater courage, are not able to endure such a seruitude and slauerie: this shall be in due place decided, as also what the nature of euerie region is: and yet for all that I see the kings of *England*, *Sweden*, *Denmarke*, and *Polonia*, who are situate toward the North, much better to maintaine the maiestie of their estates with their subiects, than doe the kings of *Fraunce*, or the princes of *Italie*; and the kings of *Moscovia* yet better than all the rest, and yet are not therefore the lesse, but well the more of their subiects obeyed.

- Now the greatest danger that can come vnto a prince, to doe all by others, is, least that they vpon whome he should so discharge himselfe, should take from him his estate and soueraignie, and so possesse themselves thereof: which for al that hath neuer chanced in this realme, but onely vnder king *Childeric*, surnamed the Loutish; since the time that the kings of *Fraunce* showed themselves vnto their subiects in their maiestie but once a yeare, viz. the first of May; as we read in our owne histories, and also in *Cedrius* a Greeke author, who saith, That the auntient kings of *Fraunce* tooke no other pleasure but to eat and drinke, leauing the mannaging of all their affaires vnto the great Master of the Pallace. But we must not draw into consequence the example of one king bereft of sense, to ground a maxime of state vpon. Yet is there well one meane to meet with that inconuenience, which is, That the prince for one lieutenant, or for one great Maister of the Pallace, should haue two or three in power and fauour equall: For in so doing he shall neuer be circumuented, their power being so diminished, one of them still bewraying or controlling the other, the kings maiestie being so still the more stately and sure. For *Tiberius* hauing made *Seianus* too great; and so *Commodus*, *Perennius*; *Theodosius* the second, *Eutropius*; *Iustinian*, *Bellisarius*; *Xerxes*, *Artabannus*; and *Childeric*, *Pepin*: committing vnto them alone the mannaging of all their affaires, with the guard of their persons, they fell into the dangers which wee spake of, being in hazard of their estates.

As for the administration of iustice, and the hearing of the complaints and griefes of the subiects, it shall be alwayes better provided by good and sufficient magistrats, than by the prince in person himselfe. For who knoweth not so many good parts to be requisite in a good iudge, as are not all well to be found in the most sufficient prince in the world? Yea who knoweth not so many things to be within the compasse of the duetie of a good iudge, as may ouerslip and escape euen the most skillfull and carefull men? whereof many must needs escape the prince before he can perceiue them, and

How the danger
least a prince
should be dispos-
sessed of his es-
tate by him
whom he putteth
in trust for the
mannaging of
his affaires, is to
be prevented.

Iustice better to be
administred by
good and suffici-
ent magistrats,
than by the
prince himselfe.

so many times the verie substance of the matter consisteth in that which is ouerslipped. **F**
 And if one shall say, that the prince may haue about him both wise and learned coun-
 cellors, according to whose aduise and counsell he may determine of matters, and so
 giue iudgement; such as *Augustus, Traian, Adrian, Marcus Aurclius, Alexander Seue-*
rus, and the other Roman emperours are reported to haue had: who were alwaies ac-
 companied with most worthy and excellent personages: truly that seemed not so hard
 a matter vnto the Roman princes, so brought vp and so enured thereunto, but now we
 liue after another manner and fashion: And who is there that seeth not, not onely the
 prince not to be able to endure so many dilatory pleas, so many slights of the lawyers,
 so many shifts of the plaintifes, such petitions and outcries of such as run from court to
 to court: but not euen the magistrats themselues without incredible tediousnesse to be **G**
 able to endure the same: all which yet they must deuoure. Yea the prince is not able
 himselfe to conceiue all such things as are the greatest and of most importance in the
 Commonweale, and how then shall he alone suffice to decide and determine so many
 suits and causes: But if hee shall take that charge in hand, and not well and orderly dis-
 charge the same, in stead of doing of the subiects right, hee shall doe them great iniurie
 and wrong. Wherein *Demetrius* (he which was called the Besieger) hath for iust
 cause beene blamed: who hauing receiued a great number of his subiects requests, put
 them into the lap of his mantle, and at the first bridge he came vnto, whereby hee was
 to passe ouer a riuer, shooke them all into the water: Wherof the subiects seeing them-
 selues by him contemned, conceiued a mutuall hatred against him, so that shortly after **H**
 he was forsaken of his armie, which yeelded it selfe to *Pyrrhus* together with the king-
 dome, which he so gained without battell. Besides that in this course taken, we should
 be alwaies driuen to haue recourse vnto the commissioners for instructions: and after-
 wards vnto the prince for iudgement of the cause: howbeit that it is sometimes hard,
 and oftentimes pernicious also, to seperat the instructions of the matter from the iudge-
 ment.

An hard charge-
 able, and daunge-
 rous matter, for
 subiects to prose-
 cute their suits
 before the prince.

But suppose that the prince were at leisure, and that hee both could and would see,
 heare, and iudge all the causes of his people, yet were it a thing not bebecoming the ma-
 iestie of a king to make such an ordinarie confusion of his court, where beside the sub-
 ielties, the countenances and fauours, (not there subiect to enquirie) and the contrarie-
 ties of letters, commissions, decrees, and prouisions, which are there dispatched vnder the
 name (but without the knowledge) of the prince, whereof colour is oftentimes made
 for the doing of wrong: it is yet moreouer insupportable for the subiects, vnto whome
 iustice is due in the places where they are, to search for the same at the court, and to fol-
 low the prince still remouing from place to place; where it were better for them some-
 times to loose their right, than with so great charge to follow the suit. Besides that the
 most honorable and worthy causes for a prince that wil himselfe intermeddle in iudge-
 ments, are the causes concerning life and honor: who shall be the accusers? who would
 fall into so great charges to sue the matter in the court: and into the daunger to bee
 slaine by the accused, if the prince should pardon the fault. For when princes vse scarce-
 ly at any time to condemne the guiltie parties, but doe oftentimes pardon and restore
 such as be alreadie condemned: by this meanes should ensue not onely no punishment
 of offences, but euen the greatest impunitie of the offenders: than which there is no
 more certaine token of a Commonweale in short time about to perish. Wherewith
 to meet, secret accusations haue bene brought in and admitted by an aunient edict of
Conan king of Scots, which is at this day in vse in Scotland, and called the Indict: and
 yet is better provided for by the ordinance of Milan (which well deserueth to bee reli-
 giously kept in euerie Commonweale) where in euerie towne there is a chest with an
 hole

A hole in it, in euery principall chutch, wheteof the gouernours haue the key, whetein to it is lawfull for euery one secretly to put his bill of accusation against any man; whetein the crime committed, the time, the place, the partie guiltie, and the witnesses, are all of them comprised, with the reward of the moitie of the confiscation allowed vnto the accuser. Which is an easie way for the punishing of offences before ordinarie judges; a thing impossible to prosecute before the prince. For these reasons and the difficulties by vs noted, *Tiberius* the emperour hauing obtained the empire, protested in the full Senat, and afterwards by his letters made it knowne vnto the officers, That hee would take vpon him nothing which belonged vnto the iurisdiction of the magistrats; for that it was more that was required of a prince, than of a magistrat. Neither ought it to seeme vnto any man straunge, why the office to iudge and decide matters, proper vnto the auncient kings, should now belong vnto the magistrats; for that when people as yet had no lawes, but that the kings power and will was accounted for law, it was then needfull for subiects causes to bee iudged by the princes: but after that lawes were once established, according vnto which the magistrat was bound to iudge, and due punishment by them appointed for offences, and rewards vnto such as had well deserued; that necessitie was taken away, and translated from the princes vnto the judges.

Why the office to iudge and decide matters, a thing proper vnto the auncient kings, now belongeth vnto magistrats and judges.

But here some man may say, That a prince may be so wise, so iust, and so full of vnderstanding, as that he will giue no iudgement but such as is agreeable vnto equitie and reason; and the compasse of his territorie so strait, as that hee may himselte suffice to iudge and determine all the suits of his subiects, as there bee diuers such princes in the Low countries, in Germanie, & especially in Italie: In this case should it not be a goodly and a profitable thing for the Commonweale, the prince himselte there to administer iustice? If thou aske me what mine opinion is therein, I thinke it not profitable either for that so blessed a prince, either for those his so happie citisens or subiects, or him in person himselte to sit in iudgement; not for that the subiects do so much loue and honour the maiestie of their prince, as not to dare freely enough to speake their minds, and to cause him to vnderstand their right; neither for that they could hardly haue access vnto him, for the multitude of causes which he should still haue before him, hauing opened this gap: but euen for that nothing is so proper vnto a prince, as clemencie; nothing vnto a king, as mercie; nothing vnto maiestie, as lenitie. And therefore the emperor *Titus* (a man of so great courttesie, as that he was called *Humani generis delicias*, or the myrror of mankind) gladly took vpon him the office of the great bishop, because he would pronounce sentence of death vpon no man, either pollute his hands with mans blood, when as yet some other emperours who were also bishops (though not so religious as he) least of all others abstained from such capitall iudgements of life and death. Now nothing is more contrarie vnto true iustice, than pitie; neither any thing more repugnant vnto the office and dutie of an vpright iudge, than mercie: hee not onely by the ciuill law, but euen by the law of God also being forbidden to haue pitie (euen of the poore) in iudgement: which we said to be so proper vnto maiestie, as that it cannot be therefrom diuided or seperated. So that a prince sitting in iudgement must take vpon him two contrarie persons, that is to say, of a mercifull father, and of an vpright magistrat; of a most gentle prince, and of an inflexible iudge. And if the prince be by nature mild and pitifull, there shall bee none so euill or wicked, who by force of teares and prayers shall not escape the punishment by the law appointed, euen the most cruell men being oftentimes by them ouercome. So we read, that *Augustus* the great emperour, for wisdom inferior vnto none, examining a murderet, began in this sort to question with him, *I am sure thou hast not killed thy father*: in which words he not

Not good for a soueraigne prince how sufficient to euer, to sit in iudgement himselte, for feare of too much lenitie, or else ieuertie, to the peruerting of iustice.

Nothing more contrarie vnto true iustice, than lenitie and pitie.

onely instructed the guiltie man what he was to answer to him both his prince and F
 judge, but also most courteously gaue him his pardon. *Nero* also at such time as the
 condemnation of a man was presented to him to signe, is reported to haue said, *Vtinam*
literas nescirem, I would to God I knew not letters. And therefore *Cicero* pleading be-
 fore *Caesar*, before resolved in any wise to haue put *Ligarius* to death, said, That he plea-
 ded not before him as a judge, but as before the father of the people: and hauing some-
 what appeased his anger, began thus to presse him farther, *Causas, Caesar, egi multas, &*
quidem tecum, cum te tenuit ratio honorum tuorum, certe nunquam hoc modo, ignoscite iu-
dicibus: errauit, lapsus est, non putauit, si unquam posthac: ad parentem sic agi solet, ad iudices,
non fecit, non cogitauit, falsi testes, fictum crimen, Dic te Caesar de facto Ligarij iudicem esse
&c. Caesar (saith he) I haue pleaded many causes, and that with thee, when thou stoodst G
 vpon thine honour, but yet neuer pleaded I in this manner: pardon him my lords, he
 hath erred, he was deceiued, he thought it not, if euer hee shall doe so againe: so men
 vse to plead before a (soueraigne prince, or a) father: but vnto the judges, we say flatly,
 He did it not, hee neuer thought it, the crime is forged, the witnesses are false. But say
Caesar, thy selfe to be judge of the deed done by *Ligarius*, &c. And in this sort secretly
 insinuating vnto *Caesar*, that he ought not to bee a judge, holding the place of a soue-
 raigne: and afterwards highly commending *Caesar* his noble acts, his valour and his
 clemencie, moued him so much, as that he chaunged both his colour and countenance,
 and was in such a sort rauished, as that he could not heare the one halfe of the oration
 (the shortest of all them that *Cicero* left in writing) but that he graunted more vnto the H
 guiltie man than euer he hoped for. If then *Caesar* himselfe, one of the greatest orators
 that euer was (euen in the iudgement of his capitall enemie *Cicero*) and one of the
 most valiant and wisest men of his time, was so ouercome by the force of eloquence,
 pardoning him whome he deadly hated, and had before resolved to put to death: what
 shall the lesse circumspect prince do, be he neuer so little enclined vnto pitie? how shall
 he be able to endure the filed speech of an eloquent aduocat? the pitiuous complaints
 of poore old men? the cries and sighes of distressed women? the weeping and wayling
 of little children? King *Agessilaus* a most famous prince of his time, overcome by the
 importunat requests of a friend, writ vnto the judges, requesting them, That if the par-
 tie accused, in whole behalfe he writ, were not guiltie, hee should bee acquitted by the I
 equitie of his cause: but if he were lawfully conuict, hee should yet neuerthelesse bee
 for *Agessilaus* his sake discharged, and so in any case acquitted. But O how many
 should escape the penaltie of the lawes, if judges in such cases should hearken not one-
 ly vnto the princes secret letters, but euen vnto their letters pattents also: and then
 what may wee deeme that a prince himselfe would doo? Wherefore himselfe in per-
 son to sit in iudgement, becometh not the maiestie of a soueraigne prince.

The people in a
 Popular estate
 easily moued vn-
 to pitie.

But now if it bee so hard for a prince in this case not to erre and bee deceiued, then
 how much more hard is it in a Popular estate, where the people suffer themselves to
 bee deceiued and led away with faire words, as a man may see almost in all the accu-
 sations made both in Athens and Rome, when the people giue sentence; where the K
 innocent were condemned, and the guiltie acquitted: of examples whereof all the hi-
 stories are full. As *Sernius Galba* a great oratour, accused, attainted, and condem-
 ned of treason befor the people of Rome; not hauing any more to say for himselfe,
 but turning his speech and action, wholly framed to the mouing of pitie; and so em-
 bracing his children, and with teares commending them vnto the people, so moued
 the beholders, as that he easily obtained pardon, and so escaped. Whereupon *Cato*
 the elder, who had accused him, said That had not *Galba* abused his children and his
 teares, hee had bene well whipt. Whereas other noble and valiant men, who could
 neither

A neither abuse their prayers nor teares, but bearing themselves vpon their integritie, if but some lying oratour, or false enformer, had accused them, they were most vniustly condemned. And so oftentimes in like manner not oratours, but flatterers: and that not openly, but secretly, doe with diuers deceits circument the prince. And therefore the nobilitie of Polonia, by force wrested a priuilege from *Lewes* king of Polonia and Hungarie: That if question were of any of their liues and honours, they should not bee iudged but by the king himselfe: foreseeing, that so they might easily escape the iudgement of the king, but not the judges, who are bound vnto the stricktnesse of the lawes. And hereupon it is come to passe, that none of the nobilitie are euer there condemned to death, what offence soeuer they doe, but alwayes escape either by fine, or at worst, by beeing kept in prison for the space of a yeare and sixe weekes, which is now there passed into the force and strength of a law, and yet is there obserued and kept; as I haue learned of *Zamosche* the Polonian ambasadour.

But suppose the prince to bee such an one as is not easily to bee moued vnto pitie or compassion; yet then is it to bee feared, least hee in iudgement fall into crueltie. For whereas to keepe the meane is to euerie man a right hard thing, so vnto princes it is of all others most difficult, who easily suffer themselves to be carried into the one extremitie or other. If hee bee a good prince and an embracer of vertue, hee will haue wicked men in extreme horror & detestation, wherewith euen the wisest men are moued with a iust anger, and so oftentimes carried away with a cholerike passion. There need no better example than that of *Augustus* the emperour, who was accounted to bee one of the most wise and vertuous princes that euer was, and at his first sitting in iudgement endured as it were the paine of the condemned: and suffered not lesse (as saith *Seneca*) than did they themselves which were executed. And yet neuerthelesse this vertuous prince by continuall custome of iudging and condemning such as were conuict before him (as most necessarie it was) became too much rigorous and cruell, suffering himselfe to bee transported with passion and indignation against the wicked: in such sort, that one day sitting in iudgement, and condemning many the accused to diuers punishments: his friend *Mecenas* beeing not able for the preasse to come neere him, cast a little billet of paper into his bosome, wherein hee called him an Executioner or Hangman: wherewith *Augustus* suddenly staied, and finding himselfe transported with choler, and so to bee too hastie in iudgement, to stay his anger forthwith brake vp the court. And for this cause our fathers haue right wisely ordayned, That the Criminall Chamber of Parliaments should from three monethes to three monethes still bee chaunged (which for this cause is called *Tournelle*: for that all the judges of the other Chambers iudged euerie one of them by turnes, to the intent that the common custome to condemne and put men to death, should not chaunge the naturall mildnesse of the judges, and make them cruell and hard harted. Besides that it is a verie hard, and almost impossible thing (as saith *Theophrastus*) that a good and honest man, should not enter into choller, seeing the most detestable enormities of the wicked, and so sometimes to become as a man euen furious, and as it were out of his wits. So *Claudius* the emperour hearing one day the plaintife rehearse the great and manifold villanies of one accused, fell into such an outrage, that taking vp a knife which lay before him, hee threw it into the accused mans face, euen in full iudgement. But if the prince which intermedleth himselfe with iudgement bee by nature cruell, he shall then make a butcherie of his court; as did the emperour *Caligula*, who by one onely sentence, for diuers crimes condemned fiftie persons, euen vnto the same kind of death, and often tooke pleasure to cut off the heads of many good men, some-

A most hard thing for a soveraigne prince sitting himselfe in iudgement, to keepe a meane betwixt too much lenitie and severitie.

The most strange & extreame crueltie of *Caligula* the emperour.

time

time to proue his owne strength, and sometime to proue but the edge of his Cimitar. F
If therefore it bee so hard euen for the most wise, to keepe the meane betwixt mildnesse and rigour, which is necessarie for iudges, it is not so easily to bee found in princes, who are most commonly extreame in their actions: for the waywardnesse of a priuat man, is indignation in a prince; and the anger of a subiect, is called furie in a king.

The best and surest meanes for the maintenance of a prince in his estate, is by all good meanes to procure the loue of his subjects: and how the same is to be obtained.

But let vs proceed farther, and suppose, that the prince haue the grauitie, the knowledge, the wisdom, the discretion, the experience, the patience, and all other the vertues requisit in a good iudge: yet so it is, that he cannot be without daunger, if he shall in person iudge his subiects. For the best and fairest rule for the maintenance of the state of a Monarchy, is, that the prince, if it may be, cause himselfe to be beloued of al, without G
the disdain or hatred of any. Wherunto to attaine, he hath two means, the one by appointing due punishment to be inflicted vpon the euill, & the other by giuing deserued rewards vnto the good. And for that the one of them is fauorable, & the other odious, it behoueth the prince that would be loued, to reserue vnto himselfe the bestowing of rewards; which are, estates, honors, offices, benefices, pensions, priuileges, prerogatiues, immunities, exemptions, restitution, and other graces and fauours, which euery well aduised prince ought himselfe to graunt: but as for condemnations, fines, confiscations, and other punishments, he is not himselfe to meddle with them, but to commit them vnto his most vpriight and wise magistrats, for them to doe good and speedie iustice therein. In which doing, they which receiue the benefits, shall have good cause H
to loue, respect, and reuerence the prince their benefactor: and those which are condemned, shall yet haue no occasion at all to hate him, but shall still discharge their choller vpon the magistrats and iudges. For why, the prince doing good to euery one, and euill to none, shall be beloued of all, and hated of none: which euen nature hath figured out vnto vs in the king of Bees, who neuer hath sting, least he should hurt any. And albeit that the sacred Scriptures teach vs, all plagues, diseases, calamities, and other worldly chaunces to depend of the wrath of God; yet in this all diuines (which more exactly entreat of diuine matters) wholly agree, none of all these things to bee done by almightie God, as by an efficient cause; but by permission onely, and to bee from him diuided, but as from a not letting cause: which cause the manner of the Hebrew phrase euerie where signifieth by the word *Hiphil*, ordinarily vsed, when it speaketh of the vengeance of God. We read also in the Poets (though somewhat oherwise) that *Iupiter* had three kinds of lightning, which they called *Manubias Albas, Rubras, Atras*, The first is white, which serueth for aduertisement, but hurteth no man, as proceeding onely from *Iupiter*, and his friendly aspect vnto the Sonne: For which cause *Seneca* saith, *Id solum fulmen placabile est, quod mittit Iupiter*, That onely lightning (saith hee) is peaceable which *Iupiter* sendeth. The other is red, and proceedeth from the aspect of *Iupiter* vnto the interieur planets, whome they call the inferiour gods, which hur- K
reth and blasteth fruits and beasts, but killeth no man. The third is blacke, and made by the aspect of *Iupiter* vnto the high planets and the fixe starres (which they call the high gods) which killeth, ouerthroweth and destroyeth whatsoener it lighteth vpon. For the Theologie of the auntients belonged vnto the Bishops, the Philosophers, and the Poets, as *Marcus Varro* witnesseth in the one and twentieth booke of worldly things: wherein they all agreed, That the great God, which they thought to be *Iupiter* (to speake properly and according to the truth) could not be himselfe angrie, neither hurt nor condemne any man, but all things to be done by meane causes, and the ministerie and power of angels. And therefore the auntient *Ægyptians* deriued a law euen from

Promethews

A *Promethius* their law giuer, whereby their kings were not onely forbidden to kill any man, but euen so much as to behold any execution done; least by such looking on, some print of crueltie should remaine in them the beholders. And this vnto mee seemeth a great secret of this our kingdome, and a thing of great force for the gaining of the subiects loue and good will towards the prince; all rewards, gifts, honours, offices, charges, and commaunds, comming still from the king: but penalties, and punishments alwaies adiudged and inflicted by the magistrats. For at such time as *William Poyet* (my countrey man) Chauncellor of Fraunce was accused of treason, and by the enuy of his most gracious enemies circumuented, the king who had receiued the wrong would not himselfe be iudge in the cause, neither so much as be present at the triall; yea when the

B partie accused had refused all the iudges of Paris, it was the kings pleasure, that two iudges, men of great integritie, and free from all corruption, should be called and chosen out of euery court of parliament in Fraunce to try him: Whereby may be vnderstood with what an obseruation of law and iustice this kingdome standeth, when as almost at the same time *Thomas Moore* Chauncellor of England, and *Hierome Moron* Chancellor of Milan, both of them accused of treason, had for their iudges, one of them euen the verie conspirators themselves, guiltie of the same treason against the prince, and the other his great enemies.

But here haply some man may say, the honour of noble personages to require, that when question is of their liues, their honour, or whole estate, the king himselfe should

C take vpon him the hearing of the matter. For when the duke of Alencon (*Charles* the seventh his nie kinsman) was accused of treason, the court of parliament answered the king, That hee could not be tryed but in the presence of the king, and of the peeres of Fraunce, without being lawfull for them to appoint their substitutes. In like case vpon counsell asked by *Lewes* the eleuenth, when question was for the triall of *Renate* of Aniou king of Sicilie, the court gaue the same aunswere, viz. That it could not so much as giue an interlocutorie decree against a peere of Fraunce, when question was of his honour, except the king himselfe were there present. I say for all that, that this was not for the king to iudge. For why, it is to be proued, that the king in auintient time was not in person himselfe assistant in the iudgement of treason, although it were in the

D triall of the princes, or of the peeres; as is to be found in the records of the court, a protestation the third of March 1386, made by the duke of Burgundie, as chiefe peere of Fraunce, against king *Charles* the sixt, wherein is contained, That the king ought not to be assistant at the iudgement of the king of Nauarre, arraigned of treason; and that so to be, appertained not but onely to the peeres of Fraunce, saying, The like protestation to haue beene made against king *Charles* the fift, to the intent hee should not bee present at the triall of the duke of Brittain: and in case hee would needs passe on farther, and breake the custome of their auncestors, the peeres of Fraunce demaunded in full parliament, That an act of that their protestation might be vnto them decreed, and so afterwards it was enioyned vnto the clarke by a decree of the court, to deliuer vnto the peeres, and to the kings Attourney generall an act of such their protestation. So

E also when question was for the triall of the marquesse of Salusse, vnder the raigne of *Francis* the first, it was by liuely reasons, and by the authoritie of the lawes both of God and man maintained, That the French king could not in that iudgement be assistant, seeing it concerned the confiscation of the marquifat: and albeit that the kings Attourney generall vrging the matter, the king was at the iudgement present, yet gaue hee not sentence, whereby the marquesse was himselfe condemned, and his goods most iustly confiscat, yet that iudgement for al that seemeth vnto many but extorted, and the other princes rested therewith much discontented. So also *Alexander* the Great would neuer

Not lawfull for the French king to be in person assistant in the triall of a prince or peere accused of treason.

take

The king ought
not to be judge,
where he is him-
selfe a partie, as in
matters concer-
ning his owne
interest.

take vpon him the person of a judge, neither thought it meet to bee assistant in the iudgement giuen against *Philotas*, *Calisthenes*, and others which conspired against his person, least he should so seeme to haue terrified the iudges, or to haue taken from them the free power of iudging: as we read in *Quintus Curtius*. For it it bee contrarie vnto the law of nature, that the partie should be judge also; & That the king is a partie in all causes which concerne either the publike or his owne proper parrimonie in particular, in which case he cannot be a judge; by a much stronger reason ought the same to take place in the offence of treason, and especially in the chiefe point, where question is, the partie accused to haue attempted the honour or life of his prince. And for this cause *Lewes* the ninth would not pronounce sentence at the iudgement of *Peter Mauclere* duke of Britaine, albeit that hee was there present when the iudgement was giuen; neither likewise at the iudgement of *Thomas* earle of Flaunders. Neither yet *Philip* the Long the French king, in the cause of *Robert* earle of Flaunders attainted of treason. Yea that more is, the decrees or sentences are giuen in the name of the peers, and not in the name of the king, albeit that he were himselfe there present: as is to bee seene in the sentence giuen against *Robert* earle of Flaunders, which beginneth thus, *Nos pares Francie ad requestam & mandatum regis venimus in suam curiam Parisijs & tenuimus curiam cum xij alijs personis, &c.* Wee the peeres of Fraunce at the request and commaundement of the king came into his court at Paris, and with twelue other persons held court. The sentence also against *Peter Mauclere*, whereby the fee of the countie of Britaine was taken from him, is giuen by one archbishop, two bishops, eight earles, *Mathew Montmorancie* the vicount of Beaumont, and *John* of Soissons, conceiued in these words, *Notum facimus quod nos coram clarissimo domino nostro Ludouico rege Francia indicauimus, &c.* We make it knowne, that we before our most noble lord *Lewes* king of Fraunce haue iudged, &c. By which words it appeareth that the king, albeit that he was present, yet gaue not sentence, no not euen in trials concerning soe-raignie. So also we may see in the case of the succession of *Alphonfus* countie of Poitiers, although there were but question of the demaine, the king yet neuertheless gaue not therein his opinion or iudgement. Neither in like sort did king *Francis*, howbeit that he was present at the iudgement of *Charles* of Burbon the constable attainted of treason. And that more is, when question was of the fealtie and homage which the counties of Champagne ought to doe vnto the king, it was iudged by the peeres of Fraunce, and many earles, the king then present, not to iudge, but to assist them: the forme of which sentence is yet found in these words conceiued, *Iudicatum est a paribus regni, videlicet a Rhemensis Archiepiscopo, & Lingonensi, Guilielmo Catalaunensi, Ph. Beluacensi, Stephano Noniomensi episcopis, & Odone duce Burgundia, & alijs episcopis, & baronibus, &c. Nobis audientibus & iudicium approbantibus &c.* Now if the prince ought to doubt to iudge the causes of his subiects, where it concerneth but their particular, and wherein he himselfe can haue no interest, to the end not to giue occasion of discontentment to them whome he should condemne, whether it were right or wrong, but ought still to maintaine himselfe in the loue and vnitie of his owne people, as in a most stately and strong tower: then how much more ought he so to doe, when hee is himselfe a partie, or the causes capitall, as for rebellion or treason? I remember, that in the triall of *Charles* duke of Burbon, one *Valier* examined in the tower of Loches, by the president *de Selua*, and the bishop of Puy, and other the conspiratours examined at Tarrare by *John Brinon* president of Roan, deposed, That the occasion which caused the duke to rebell, was the aunswere that king *Francis* made vnto the articles which the duke had sent vnto the court of parliament, concerning the suit he had against the king and the regent, concerning certaine lands and demaines which the duke claimed as belonging

A longing vnto himselfe. Wherein had not the king in any sort medled, but left it all together vnto his iudges and attourneies, he had not giuen occasion to so great a subiect to haue brought both the king himselfe, and the whole realme, into such a daungerous an estate as it was in short time after. For what good iustice soeuer the prince do, alwaies he that shall bee condemned will thinke that hee hath wrong done him.

Now to say as some men do obiekt and say, That if the prince in person himselfe should take vpon him the administration of iustice, men should haue a good and quicke dispatch of their suits; and that such numbers of appeales, such exceptions and petitions, with other long delaies of iustice, should be so quite cut off; deserueth not so much as aunswere. For who is he which knoweth not at what great charge he must bee, how many circumstances and delaies, how many windings and turnings, how many repulses and griefes he must endure that hath any suit in court? Neither is it to be thought, Iudgements to be so much the better, by how much they are the shorter. For albeit that *Thucydides* (the most famous of them that were of his time, of the counsell of the *Areopagi* in Athens) seemeth to haue beene in the same opinion that some others were, viz. That offences once committed, were forthwith to be punished; yet I verily suppose the opinion of *Plutarch*, yea of the Hebrewes themselues to bee the truer: for these thinke it necessarie for him that will iudge aright, to vse delaies in publike iudgements. But he in that little booke which he wrot of the slow vengeance of God, plainly teacheth men to be warned by almightie God, if they will be the true imitators of his iustice, to proceed but slowly and by little and little in the triall of capitall causes, whether it be that the truth of the matter may the better appeare, or for the drawing of some profit from the offenders before their death, or to draw them to repentance, or for their more gruious punishment (for that the punishment is the greater the longer that it hangeth ouer ones head) or the better or more iustly to iudge of another mans life, being withall in question. For right hard it is for a iudge pressed with choller and desire of reuenge, halted by some, and thrust forward by others, to doe good iustice, what knowledge or feare soeuer hee haue to iudge amisse: and what shall then the prince doe, who hath neither the one nor the other? The iudgements of the inferiour magistrats are corrected by the superiour, by way of appeale: but if the prince himselfe shall take vpon him to iudge, who shall reforme his decrees? For he that in the former iudgement hath not sufficiently declared his matter vnto the iudge, or by ouersight let some thing passe; if yet he may appeale, all may wel be amended: but if the prince himselfe shall once giue iudgement, the gate is then after sentence shut vp, and no place left for appeale, or how to amend the errour. Which we say to restraine a prince from intermeddling with iudgements, except he be a man of great wisedome, or vse therein the assistance of his wise and learned counsellors; and the causes such as may seeme worthy the princes hearing and iudgement: following therein the counsell of *Iethro*, who seeing *Moyse* troubled from morning to night in doing iustice to all men, and in all causes, You kill your selfe (said he) with taking so much paine; chuse mee out of the wisest and most discreet men of the people to ease your selfe vpon; and if there be any thing high or difficult to iudge, it sufficeth that you take vpon you the hearing thereof, leauing the rest vnto the other magistrats and iudges to heare and determine. Which counsell of his father in law *Moyse* followed. So likewise wee read, that *Romulus* hauing committed vnto the Senat and the magistrats, the ordinarie administration of iustice, reserued vnto himselfe onely the hearing of matters of greatest importance. And albeit that the Roman emperours afterwards would haue their iudgements to extend something farther, yet was the emperours iurisdiction for the hearing of matters still shut vp and included within certaine bounds: which for all that the princes flatterers, or

A vsine obiection for the shortning of suits, if the prince himselfe in person take vpon him the administration of iustice.

The quicker iustice not alwayes the better.

Causes worthy & well be seeming the princes hearing & deciding.

else

else the princes themselues oft times went beyond, sitting in iudgement sometimes
 euen of light and ordinarie matters: so as did *Claudius* the emperour, (the most sortish
 lout that euer was) who yet would alwayes be iudging and deciding of causes and con-
 trouersies: of whome *Tranquillus* thus writeth, *Alium negantem rem cognitionis sed or-
 dinarij iuris esse, subito causam apud se agere coegit*. He compelled (saith he) another man
 denying the matter to belong vnto the emperours hearing, but to be onely an ordina-
 rie matter, and so to belong to the ordinarie iurisdiction, hee compelled him (I say)
 euen forthwith and without more adoo, to plead the cause before him, but that so foo-
 lishly, as that the lawyers openly mocked him, therefore insomuch that one of them
 was so bold with him, as to say vnto him in Greeke, which yet most of the standers by
 vnderstood, *καὶ σὺ γέρον εἰ καὶ μωρός*, *An old man, and a foole too*. And another
 tript him going out of the iudgement seat, and so gaue him a fall: yea his folly at last
 proceeded so farre, as that the verie pages and lackies would play with his nose as hee
 slept, and spot his face with inke. And into this case the prince must needs fall, who void
 of wisdome, thinketh it a goodly matter in the presence of the people to determine
 great matters, and so to make himselfe to bee of all men contemned and laughed at:
 than which nothing can be more daungerous in a Monarchy. Wherefore the prince
 which will often sit in iudgement, be present in the Senat, or much show himselfe vn-
 to the people, him I would haue equall in vnderstanding vnto *Salomon*, in wisdome
 to *Augustus*, and in modestie to *Anselmus*; or els but seldome to come abroad, and
 more seldome himselfe to administer iustice, and that so much the lesse in the presence
 of straungers, who still iudge such things as seeme not commendable in a prince, not
 onely in his mind, but euen in the euill feature of his bodie, or vncomelineffe of his at-
 tire: and such other small imperfections (which the subiects for the loue and reuerence
 which they beare vnto their naturall prince easily beare with all) to be euen right great
 vices or deformities. Which the straungers neuer excuse, but reporting the same to
 the worst, still augment them in straunge places, euen to the least of his lookes, counte-
 nances, behauiours and gestures. The fame of king *Agessilaus* had with the bruit ther-
 of filled all the lesser Asia, Greece, and Affrike, whome yet when the king of *Ægypt*
 had scene lying vpon the ground in a medow, with a course Greeke cloke on his back,
 and himselfe but leane, little, and lame withall, he made of him no great account, but
 rather had him in contempt and derision. The like is reported in the memorie of our
 fathers, to haue happened vnto king *Lewes* the eleuenth, who being chosen arbitrator
 in a controuersie betwixt the kings of Nauarre and Castile, and going vnto the fron-
 tiers of his kingdome, the Spaniards at their arriual mocked the French men and their
 king, Who seemed vnto them as a pilgrim come from Saint *James* of Compostella,
 with his great cap vpon his head, set all about with brouches, and his iacket of course
 cloath, without any maiestie at all; either in his countenance, or in his behauiour; and
 they of his traine all in like sort apparrelled: (For why, he could not abide to see any
 man in braue attire) whereas the king of Castile and his troupe beeing come, showed
 themselves in most sumptuous attire, with their horses in their rich caparisons: which
 shewed a certaine greatnesse in the Spaniard, insomuch as that it seemed the French-
 men to haue bene but the Spaniards seruants, but that there was a great and strong ar-
 mie of them not farre off in the field, in readinesse at all affaies: which the Spaniards
 discovering, yeeld vnto the French king such conditions as himselfe pleased. And
 yet the same king *Lewes* the eleuenth considering princes by the opinion of men to bee
 either prayse or disprayse worthy (who commonly are led away but with the exterior
 show) hearing that the ambassadours of Venice were come brauely apparrelled, and
 well accompanied, he caused himselfe to be also most magnificently in royall robes at-
 tired,

Claudius the em-
 perour derided
 for taking vpon
 him the deciding
 of common cau-
 ses and matters.

The great care
 that a prince
 should haue of
 himselfe, which
 would oftentimes
 sit in iudgement,
 or much show
 himselfe, and espe-
 cially vnto stran-
 gers.

A tired, and so sitting in an high chaire of Estate, admitted the embassadours vnto his presence.

Wherefore with greater reason ought a prince, when as he commeth to an enter view with another strange prince (which he ought but most seldome to doe) to shew himselfe in such sort, as that there be nothing in his attire, and much lesse in his countenance or behauiour and speech to be discommended. And that is it for which *Philip Comines* speaking of the enter view of princes, sayth, That they ought to shun it so much as they may: for that their presence alwaies diminisheth their fame, and the opinion conceiued of their persons, causeth them to bee the lesse esteemed: a thing yet more to be feared towards the strangers than towards the subiects.

That princes ought seldome to come to an enteruiue of their persons.

B Now that which I haue said, It not to be fit for soueraigntie, or for soueraigne princes to entermeddle with iudgements; ought yet more to be obserued in a popular estate, for the great difficulties in assembling of the people, and to cause them to vnderstand reason; and then after that they haue vnderstood it, to induce them well to iudge thereof, their iudgements being oft times peruerterd by seditious declamations or factions: which was the greatestt occasion of the ciuill warres amongst the Romans, vntill that *Sylla* the Dictator had remitted the hearing of all causes vnto the magistrats, excepting the offence of treason, and that in the highest degree.

The people vnfit to iudge of matters.

C But yet besides the inconueniences by vs before noted, nothing hath euer bene more dangerous, or more ruinated Commonweales, than to translate the authoritie of the Senat or commaund of the magistrats, vnto the prince or the people. For that the lesse the power of the soueraigntie is (the true markes of maiestie thereunto still reserved) the more it is assured; as well said *Theopompus* king of Lacedemonia, who hauing encreased the power of the Senat, and appointed fise Ephori in title of office, as Tribunes of the people: and being therefore by his wife reprov'd, for that in so doing hee had much diminished his owne power: So haue I also (said he) much more assured the same for the time to come: For hard it is for high and stately buildings long to stand, except they be vpholden and staid by most strong shores, and rest vpon most sure foundations; all which consisteth in the Senat or counsell, & in the good duties of the magistrats. In which thing the Venetians, as they haue done many things wisely, so haue they done in nothing more than in that, that they which haue the soueraigntie, intermeddle not with iudgements onely, but not so much as with any other thing els, which may wel by the magistrats or the Senat be dispatched: Which haply hath bene one of the chiefe meanes wherby that state hath bene so long preserved, considering that there neither is, nor euer was any Comonweal, where they which haue the soueraigntie trouble themselues lesse with that which belongeth vnto the counsell or the magistrats. The Great Council of the nobilitie, or gentlemen, wherein the whole maiestie of that Comonweal resteth, is neuer assembled but for the creating of new magistrats, or enacting of lawes, all the rest of the affaires of the estate being to be dispatched by the Senat, and the counsell of the Ten, and of the Seuen men; and matters of iurisdiction by the other magistrats. Which if it be a thing commendable, and well appointed in Aristocraticke estates, with better reason ought it to take place in Popular estates, *where the more heads there be, the lesse wit there is, and so the worse resolution also.* Neither like I of *Xenophon* that most famous mans opinion, who speaking of the Athenian Commonweale, saith, That the more popular that the lawes are, the better they maintaine a Democraticke, or Popular estate, When as (saith hee) the people hath the hearing of all matters, and that all passeth by lot and voyce: which thing indeed doth vtterly overthrow all Popular Commonweales. As in Athens, when as by the perswasion of *Pericles*, the hearing and deciding of matters, and the manning of the state, was taken

That the Senat or Magistrats are not to be depriv'd of their authoritie & power to haue the same given to the prince.

The Popular
Commonweale
not to be the best
maintained by
the most Popular
lawes.

from the Senat or councell of the Areopagi, to be brought backe vnto the people; the citie destitute of wit, and without councell, fell first forthwith into great broyles, and not long after into vtter ruine & decay. But amongst the Swissers, where their Popular estates haue now flourished 260 yeares, and so yet continue and grow from good to better, still flourishing both in peace and warre: those their estates are preserued and vpholden by lawes of all other least popular, nothing being almost left vnto the people more than the chusing of their officers, the other rights of soueraignie being but sparingly and within a certaine conuenient measure communicated vnto them. Neither was the Roman Commonweale euer fairer or farther from ciuill warres, than when (the maiestie of the people saued whole) all things were done by the Senat and the magistrats: which was from the first Carthaginensian warre, vnto the conquest of the kingdome of Macedon. But after that both the *Gracchies* by their most popular lawes had taken from the authoritie of the Senat and the power of the magistrats, as much as they possibly could, all to encrease the wealth and libertie of the people; there ensued thereof a most miserable change of that Commonweale: neither did the citie of Rome euer after cease from ciuill warres and sedition, vntill that immoderat libertie of the insolent people, was by the power of one oppressed and brought vnder, and they so brought into excreame miserie and seruitude. The same inconuenience or mischiefe befell the Megarensians, who from a Popular estate fell into a most miserable Tyrannicall gouernment (as saith *Plato*) for the vnbridled libertie and insolencie of the people, taking vpon them the hearing of all things, aboue the authoritie, iurisdiction, and power of the Senat, or of the other magistrats.

The best ordered
Commonwealth

But the best kind of Commonweale is that, wherein the soueraigne holdeth what concerneth his maiestie, the Senat maintaineth the authoritie thereof, the magistrats execute their power, and iustice hath her ordinarie course. Whereas otherwise if the prince or the people shall take vpon themselues the authoritie of the Senat, or the commaunds, offices, or iuridictions of the magistrats; it is much to be feared, least that they destitute of all helpe, shall at the length be spoyled of their owne soueraigne maiestie also. And in mine opinion they shamefully erre, which thinke themselues to encrease the princes wealth and power, when they show vnto him his Clawes, giuing him to vnderstand, that his will his countenance, and his looke, ought to be as an edict, a decree, and a law; to the end that there should be none of his subiects which should presume to take vpon them the hearing or deciding of any matter, which might not bee againe by him reuerfed and chaunged: so as did the tyrant *Caligula*, who would not that the lawyers should so much as giue their councell and opinions, when as he said, *Faciam ut nihil respondeant nisi Eccum*, that is to say, That is he to whome it alone belongeth to giue his opinion; meaning by himselfe: but by the word *Eccum*, which is, Behold the man; alluding to the word *Æquum*, which is, That which is right and iust. But this opinion by little and little crept into princes minds, breeding in them an incredible desire of oppression and tyrannie.

The foolish say-
ing of Caligula.

CHAP. VII.

Whether a Prince in ciuill factions ought to ioyne himselfe to one of the parties, and whether a good subiect ought to be constrained to take part with the one or the other faction: with the meanes to remedie seditions.



Ow wee haue alreadie declared, What a Soueraigne Prince ought to be in the administration of iustice towards his subiects; and if he should take vpon him the person of a iudge, when, and how, and in what sort of Commonweale he ought to doe it: let vs now also see out of the tearmes of iustice, when the subiects are diuided into factions and part-takings, and that the iudges and magistrats are themselves parties also, Whether the Soueraigne Prince ought to ioyne himselfe to one of the parties; &

whether the good subiect ought to be constrained to follow the one or the other party, or not. And first let vs set downe this as a maxime, All factions and part-takings to be dangerous and pernicious in euerie sort of Commonweales, and that they ought, if it be possible, by all meanes to be prevented; or if that cannot be before they bee plotted, yet to search the meanes to heale them, or at leastwise to imploy all conuenient remedies to mitigate the disease. And albeit that of ciuill seditions and part-takings there

All factions and part-takings dangerous vnto Commonweales;

sometime commeth great good, as some one or other good law, or some other good reformation, which had not bene if the sedition had not happened; yet it is not therefore to be said, that sedition is not dangerous, although that it by chaunce and casually draw after it some good: as in mans bodie a disease chauncing, is the cause that men vse letting of blood, and purgations, and so draw away the euill and corrupt humors: so seditions oftentimes are cause that the euill or wicked men are slaine, or driuen away and banished, to the end that the rest may liue in quiet; or that euill lawes and decrees be cancelled and repealed, to giue place vnto good, which had otherwise neuer bene receiued. For which if one shall say, That seditions, and ciuill warres, are good, hee might also say, that murders, parricides, adulteries, theft, and the subuersion of estates &

Commonweales are also good. For why, there is no impietie so great, no villanie so detestable, whereof no profit may redound, either to all, or to some men in particular; yea the verie villanies of wicked men almightie God vseth to draw either to the punishment of the reprobate, or to the glorie of his name. Which yet to prayse, were as if we should commend diseases; as *Fauorinus* the Philosopher highly commended the feuer quartaine; which were but to confound the difference betwixt good and euill, the difference betwixt profit and disprofit, betwixt honour and dishonour, betwixt vice and vertue; and in briefto confound fire and water, heauen and earth together. Wherefore as vices and diseases are dangerous both vnto the bodie and the soules; so seditions and ciuill warres are hurtfull and pernicious vnto all estates and Commonweales.

But it may be some man will say, That seditions and ciuill warres are good and profitable for Tyrannicall Monarchies, and for the maintaining of Tyrants in their Tyrannicall estates, they being alwayes enemies vnto their subiects, and such as cannot long continue, if the subiect be once at accord amongst themselves. But we haue before declared, the Tyrannicall Monarchy to be of all others the weakest, as that which is not but by cruelties and villanies nourished and maintained; and yet commonly wee see it to fall and take end by seditions and ciuill warres: so that if we looke into all tyrannies which haue bene destroyed and ouerthrowne, we shall find it most commonly to haue happened of factions and ciuill tumults. Yea euen the most craftie and subtil tyrants;

Seditions and factions dangerous euen for Tyrannicall gouernments

who by little and little put to death, now some, and then others, to sat themselves with the blood of their subiects, and to saue their owne vnluckie life, which they lead in continuall paine and languor, neuer escape the murdering hands of conspirators; who so much the more encrease, by how much moe the tyrant putteth of his subiects to death; others which are vnto them allied, being alwaies prest and readie to reuenge the death of their so nie kinsmen: and albeit that the tirant put to death all their kinsmen, friends, and allies, yet neuerthelesse they shall so stirre vp all the good subiects against themselves. And of the goods of the subiects for tyrants to enrich themselves, is to procure their owne ruine and decay: for it is impossible that spleene should fill it selfe, or that the ouergrowing of corrupt proud flesh should fatten it selfe, but that the other members must drie, and so the whole bodie shortly after perish and consume also. And therefore the Florentines in my iudgement had no reasonable cause, why secretly to maintaine the factions of the Pistoians, whome they had before subdued: for that they foresaw not, them whome they thought might so by their mutuall broiles and contentions be weakned, & so the more easily endure the Florentines their lords, by liberty and the vse of armes to grow more fierce and couragious, than if they had liued in peace and quiet, and with aboundance of delights lost their force and strength: besides that, they therewith lost so much of their owne force, by the losse of so many good subiects, one of them by another ruined and ouerthrowne.

An especiall benefit a Monarch hath aboue other Commonweales.

Private factions how they are to be suppressed.

Now if seditions and factions be dangerous vnto monarchies, then are they much more daungerous vnto Aristocracies and Popular estates: for that Monarches may maintayne their maiesty, and as neuters decide the quarrels of their subiects; or by ioyning themselves to one of the parties, to bring the other vnto reason, or els altogether to oppresse them: whereas the people diuided in a popular estate, hath no soueraigne ouer them; no more than the lords diuided in Aristocratie haue no man to commaund them: if it be not that the greater part of the people, or of the lords, be not of the faction, which so may commaund the rest. Now when I say faction, my meaning is not of an handfull of people, or some small number of subiects, but euen of a good part of them banded against an other, able to trouble the whole estate: but if they be but few in number, hee that hath the soueraignty in hand, ought at the first to repress them; which he may doe either by commaunding them to lay downe armes, or by referring the cause of their dissention and variance vnto indifferent judges: or if the matter bee such as may require his own declaration and pleasure, then to doe the same with good aduice, and the mature deliberation of his most wise magistrats and counsellours, not in any wise suspected to fauour the one part more than the other: and this to the intent that the prince, or they which haue the soueraignty, should not themselves beare the enuy or discontentment of them which should so bee condemned. But if the faction be grown so farre, as that it cannot by way of justice, or by orderly inducements be appeased, it then behooueth the soueraigne prince, or them that hold the soueraignty in an Aristocratie or popular estate, to vse their forces for the vtter extinguishing thereof, by the punishing of some few of the ring-leaders and chiefe men in the faction; that so the punishment may touch but some few, and yet the feare come vnto all of them. Neither ought the soueraigne prince to deferre the matter so long, vntill they bee growne so strong as that they be not any more to be resisted; or that the leaders of them being for feare of punishment become desperat, shall seeke to ouerthrow the whole estate of the commonweale. For there still are, and alwaies haue bene good and valiant men, which for the welfare of their countrey doubt not to aduenture their liues; although there be many, who to the contrary had rather their countrey should perish for them. Which kind of men (the very plagues of commonweales) are vpon the sudden to be oppressed

A oppressed, lest happily the whole estate of the commonweale were oft times by some one or other of them to bee indaungered; yea, although such ciuill discord rise but for some priuate displeasure of theirs.

But all this which we haue yet said, is to be vnderstood but of factions which concerne not the estate; for if the faction be directly against the state, or the life of the soueraigne prince, there is then no question whether the prince should take a part, or show himselfe an open enemy vnto such seditious, which so professe themselves of all others the greatest enemy of their prince & commonweale: for otherwise, if when the state and welfare of the commonweale, or the prince his owne life is attempted, he shall sit still but as an idle beholder, he shall so inuite and animate not the more desperate sort

Factions and conspiracies against the prince or estate, how they are to be repressed and the conspirators punished.

B of men onely, but euen very cowards to seeke after his life also. But yet a great difference there is to bee made in the manner of punishment of the offenders: for if the number of the conspirators against the state or his person be but few, he shall suffer the Magistrats to proceed against them by order of law, and as he seeth cause himselfe to moderate the heauinesse of the punishment; which the fewer the conspirators are, is so much the sooner to be inflicted, and before that moe bee discovered, to the end that by the punishment of some few, the good subiects may stil be kept within the compasse of their allegiance and dutie, and those which were euill enclined, so terrified from their euill intended purpose. Neither yet is too strait or strict enquire to bee made to find

C out all the conspirators, least by force of torture and torment, such things bee haply wrung out, as were indeed better vnknowne than knowne. And yet it is not to bee dissembled or winked at, if the pattie guiltie bee once discovered to haue conspired against the life of his soueraigne, or yet to haue but bene willing so to haue done. As it happened vnto a gentleman of Normandie, who confessing vnto a frier (his ghostly father) of a purpose that he had had to haue slaine *Francis* the first the French king, but yet not daring so to do, to haue repented him now of his so wicked and detestable a purpose, was therefore of the frier so much as in him lay pardoned; who yet neuerthelesse forthwith reuealed the same vnto the king, who causing the gentleman to bee apprehended, sent him vnto the parliament of Paris to be tryed, where he was as a traitor condemned to death. Howbeit, that (in mine opinion) the king in his greater wisdom might haue done better to haue pardoned him, for that it had repented him of that his wicked purpose (which the law for the hainousnesse of the fact doe so seuerely punish) & so was become the betraier & accuser of himself before he was by any other accused. And it may be that it had bin better to haue executed him without making of the king acquainted therewith, so to haue disburdened him of the enuy of such a iudgment. So as did the emperour *Augustus* with *Q. Gallus*, who hauing not onely purposed, but euen desperatly also attempted to haue slaine him; and being therefore by the Senate condemned of treason, was yet by the same emperour *Augustus* (dissembling the matter as if he had thereof knowne nothing) pardoned, and so sent away vn-

That in a conspiracy it is not good to make too strait enquiry to find out all the conspirators.

E to his brother then gouernour in one of the prouinces: but was yet neuerthelesse vpon the way slaine, not without the secret commaundement of *Augustus* himselfe, as many men supposed, vsing therein the like subtilty: a craft that had his vncke *Cesar* before vsed, in giuing pardon to *M. Marcellus* at the request of the Senate; who yet was immediatly after slaine, as one of *Cesar* his most mortall enemies. Yet more likely it is, neyther *Cesar* (who in a certayne naturall clemency exceeded almost all other princes) neyther *Augustus* (placed in so high a seat of honour and maiestie) to haue beene willing to haue defiled or stained their so great honour & dignity with the secret murder of them whom they might most iustly haue executed. Howbeit that some of the finer sort to the contrary excuse the matter, as by them done for the safety of their owne

Torture for the
finding out of
conspirators
ought to be most
warily vsed.

Conspirators pre-
uented to haue
oftentimes bene
right wisely dis-
sembled, and not
farther enquired
after.

lives; and yet so by this meanes still to maintaine the great opinion which they had be-
fore caused men to conceiue of their clemency and mercy. But if the conspirators be
in number many, and that they be not all discouered, the wise prince ought to beware
how he putteth to torture those that be condemned, albeit that he might euen with a
becke without danger kill them all: for that for one that he should put to death, there
would arise vp an hundred of their allies & friends, who it may be, haue power enough,
or at least wise neuer fayle of will enough to reuenge the death of them which were of
their blood: and in case all this were not so, yet ought the prince alwayes to shunne the
note and blame of cruelty, as well of his subiects as of strangers: wherein *Nero* was
greatly deceiued, who hauing discouered the conspiracy against his person and estate,
would needs by torture & torment know all them that were partakers therein: where-
in he found so great a number of them that were, what by right, and what by wrong
accused, as that the conspirators indeed seeing themselves condemned, discharged their
choller vpon the tyrants most faithfull and loyall friends: all whom hee caused most
cruelly to be slayne; which was afterwards the cause of the open and generall rebellion
of the captaynes and gouernours of the prouinces against him. And for this cause
Alexander the great hauing put to death *Parmenio*, *Philotas*, and the rest which had
conspired his death, by a new decree or law abrogated the auncient law of the Ma-
cedonians, whereby five of them that were the nearest of kinne vnto the conspirators
were still to be put to death. But the best and surest way to auoyd the farther daunger
of a conspiracy already preuented, is for a prince to dissemble the matter, as if he knew
not the conspirators, as *Tacitus* well sayed, *Optimum remedium insidiarum, est si non*
intelligatur, The best remedie of a conspiracie is, not to seeme to vnderstand thereof.
So when *Hanno* generall of the Carthaginensians, had purposed to haue slaine all the
Senators, and chiefe men of the citie, vnder the colour of the marriage of his daughter;
the Senat vnderstanding of the matter, but dissembling the same, forthwith caused an
edict or law to be published, concerning the charges to be made at feasts: wherein the
number of the guests, & the charges of the feast (which was not great) was most strait-
ly appointed. By which decree of the Senat, the conspiracie intended, was without any
rumult or bloodshed at all quietly suppressed. So in like manner *Eteocles* captaine of
the Lacedemonians, with a strong garrison of souldiours holding the island of Chio
against the Atheniensians, and vnderstanding that the garrison souldiours secretly con-
spiring together, had determined to kill the inhabitants their friends and allies, in whose
aid they were come, and so to take vnto themselves the possession of the iland; and
that the signall of the conspiratours was, for eucry one of them to carrie in their hands
a cane, or reed: hee (I say) vnderstanding of the matter, and accompanied with cer-
taine of his most assured friends, & so walking about the citie, slew the first that he met
withall carrying of a reed, and so suddenly gaue it out, That hee would kill all the rest
that so carried reeds in their hands, and yet withall tooke order with the inhabitants of
the island, that the souldiers were paid their pay: and so by the death of one onely souldi-
our the conspiracie was quenched before the fire could bee well kindled: and the
occasion of the conspiracie so taken away, and all againe well quieted. Wherefore ene-
rie gouernour and magistrat ought to take care, not so much to take away seditions al-
readie growne, as to preuent them: For that a sedition once set on fire, is like a sparke
suddenly blowne, which with the rage of the people, which setteth all the citie on a
light fire before it can be againe quenched. Wherein the princes commaunds are not
to be expected, who commonly know least of such things as touch them neereft. Yea
oftentimes it happeneth princes wel to vnderstand the secrets, writings, doings, and say-
ings of other forren princes, and yet perceiue not the fire kindled at home in their own
realmes,

A realmes, in their owne pallaces, yea euen in their owne bed chambers. The conspiracy of *Pelopidas*, for the surprising of the castle Cadmea, and the expulsiō of the Lacedemonians out of Thebes, was knowne in Athens, before that any thing thereof was discovered in Thebes, as the euent shewed. For why, but euen a little before that *Archias* the captaine of the castle was together with the garrison souldiours therein slaine, he was by letters from the bishop of Athens warned to looke to himselfe: which letters because he would not at supper read, he vsed the common prouerbe; *In crastinum negotia*, To morrow will serue for our businesse. Who knoweth not the emperour *Charles* the first to haue bene either partaker, or priuie almost to all things that were any where done by other princes, yet did he not so much as once suspect the conspiracie which

B * duke *Maurice* and *Albertus* marquesse of Brandeburg his familiar and domesticall friends, had euen fast by him contriued against him: yea and had also effected the same before he could feele or perceiue the smoke thereof. But what need forren examples? the conspiracie of *Amboise*, which set all Fraunce on fire, was diuulged in Germanie, England, and Italy, before it was once suspected by them against whome it was contriued in Fraunce: vnto whom the cardinall *Granuellan* is reported by his letters to haue first discovered the same, and yet there were about ten thousand persons which had therein a part. Whereby it is plaine, such conspiracies as wherein the force and power of many is to be required, to haue alwayes had most difficult and daungerous euent: for that they can neither by a few be effected, neither yet by many be concealed. Yea

C oft times it chaunceth the conspirators most secret designes to bee euen by women first reuealed. As it happened to *Philotas*, who discovering the conspiracie against *Alexander* the Great vnto a courtisan whom he loued, was together with his conplikes to his destruction by her bewrayed. So *Fulvia* vnderstanding of *Cateline* his conspiracie by one of his souldiours, reuealed the same vnto the Consul *Cicero*. And in our time the secret designes of the Prior of Campania (generall of the French gallies) for the sudden surprising and rifling of the citie of Venice by a souldiour reuealed vnto a courtisan, was forthwith by her discovered and made knowne vnto the Senat. Yet for all that an hard matter it is for a prince, be he neuer so wise or subtrill, to preserue himselfe from the daunger of a resolute man that hath sworn his death: for that as the secret, & the execution thereof is but against one man onely, so is it but in one man alone enclosed, willing and resolved to sacrifice his life (how deere vnto him soeuer) to haue another mans, howbeit that he were beset round with an armie. Such an one as *Scenola* is reported to haue bene; who of the euent gaue first name vnto his house and familie, for that he of his owne accord had thrust his right hand into a burning fire, so to bee burnt of, for that he mistaking the man, had slaine the kings lieutenant in stead of the king himselfe. With no lesse boldnesse (or valour should I say) did a seruant of *Lazarus* the Despot of Setuia kill *Amurath* the king of the Turkes, in the midst of his legions of men, so to reuenge the death of his lord, and the dishonour done vnto the queene his wife. So *Pausanias* also in the sight of the whole armie slew *Philip* king of Macedon, *Alexander* the Great his father. And *Peter Aloisius* also duke of Placence, was in his owne castle by two murderers stabbed and slaine euen in the sight of his guard. And he that slew the emperour *Domitian* went to seeke him out euen into his cabinet with his arme in a scarfe: in such sort as did *Aod* kill *Eglon* king of the Moabites. And if *Cosmus Medices* duke of Florence (hauing seized vpon the estate) had not alwaies gone armed, neither could his great guards, nether yet his strong castles haue kept him from the hands of most desperat men, who oftentimes found meanes to enter euen into his most close and secret places, to haue slaine him an hundred times, what death soeuer they should therefore haue died. Yea amongst the rest of many

Princes oftentimes better to vnderstand of the conspiracies against other princes, than of such as are against themselves at home contriued.

* 1552.

Conspiracies hard to be concealed, being oft times euen by women reuealed.

The most dangerous conspiracie that can be against the person of a prince, and the hardest to bee auoyded.

most desperat murderers, there was one, who euen in the counsell chamber stricke F
him with his dagger, thinking so to haue stabbed him (his guard standing round about
him) not knowing him as then to haue had a priuie coat vpon him. And yet well hee
knew that his life lay thereon, and so indeed was presently cast headlong out at a win-
dow downe to the ground.

But forasmuch as we haue before touched certaine meanes which may preserue a
prince from falling into these daungers, and whereby to hinder the conspiracies which
might be made against his person: Let vs now see how he ought to beare and behaue
himselfe in conspiracies and factions, which are not directly against himselfe nor his
estate, but amongst his great lords among themselues, or among the estates, townes,
or prouinces subiect vnto him; all which he ought by all meanes to preuent, and not to
neglect any thing how little soeuer it be for the meeting therewith. For as the great
stormes and tempests are caused of most light and insensible exhalations and vapours:
euen so seditions and ciuill warres the destructions of cities and Commonweales, are
most times begun for most smal matters, and such as a man would not thinke that euen
they should worke such effect. In the raigne of *Iustinian* the emperour all the cities of
the Greeke empire were diuided into factions, for the maintaining of the colours of
Greene & Blew, which they according to their fancies tooke vnto them in their sports
and iusts, one of them brauing and contending with another: which in the end tooke
such force and went so farre, as that the judges and magistrats of Constantinople, going
about to punish the seditious, were letted so to doe by others of the same faction who
tooke part with them, and so tooke out of the hands of the officers and executioners
such as were by them led to the place of execution, and not so contented brake open
the prisons also, and let loose all the prisoners, and in the same rage burnt the temple of
Saint *Sophia*: and to auoid the punishment which they (hauing laid downe armes)
were not to hope for, made choyce of one *Hippatius* the captaine and ring-leader of
their faction, for emperour; *Iustinian* with his familie in the meane time lurking in a
corner. Which tumult proceeded so farre, as that thirtie thousand men were in one
day in that quarrel slaine: and had not he the leader of the faction (and he euen the new
chosen emperour) there beene killed, the emperour *Iustinian* had vndoubtedly had
much to do to haue saued his life; who yet at the beginning together with his other
courtiers tooke great sport and pleasure therein. The like whereof happened at Syra-
cusa also, where two of the magistrats become riuals, and so falling out for their loue, at
the first gaue occasion for other men to laugh at them, but at length so diuided the
whole Commonweale into two such factions, which so banded the one the other, as
that the most couragious of the nobilitie being slaine, the people taking vp armes and
driving out them that were left of the nobilitie or better sort, tooke vpon it the soue-
raintie, and so changed the Aristocratie into a Democratic or Popular estate. Where-
fore it behoueth a prince, before the fire of sedition and ciuill warres by such sparkes be
enflamed, to cast on cold water, or else quite to quench the same: that is to say, to pro-
ceed to the preuenting thereof, either by sweet speeches and persuations, or els by open
force. So as did *Alexander* the Great, who seeing *Ephestion* and *Craterus* his greatest
friends, vpon a mutuall emulation to be at discord and variencie amongst themselues,
and so to draw the rest of his valiant captaines into parts taking with them: hee at the
first with faire words, and gentle persuations sought to make them friends together,
but afterwards taking them apart, sharply rebuked them both, threatening withall to
band himselfe against him which soeuer of them should first by word or deed offend
the other: by which sharp reprehension putting them both in feare, made them friends
together. And so our king *Lewes*, he who for his deuotion towards God, for his loue
towards

Off small sparkes
oft times do arise
the great flames
and fiers of sedi-
tion.

That the quarrels
of great men
ought euen in
the beginning to
be wisely appea-
sed, or by force of
the prince sup-
pressed.

A towards his neighbours, for his charitie towards particular men, and vpright dealing towards al, is numbred amongst the Saints; vnto his great praise vsed the matter, as that all the time of his raighe there was neuer difference or contentions betwixt any the princes, which he for his integritie and wisdom himselfe in most friendly and peaceable manner quieted not. Yet of all things this is in a prince most to bee taken heed of, That in ending the differences and quarrels of the nobilitie or princes, he seeme not to be led or moued with the loue or hatred of any of them, one more than another. Wherin *Archidamus* king of the Lacedemonians, wisely prouided for himselfe, who seeing two great men his most deere friends at oddes betwixt themselves, brought them both into the temple, and there demaunded of them whome they would make choyce of to be arbitrator of the difference betwixt them? who both answering, That they would make choyce of none other but of *Archidamus* himselfe: Swear then vnto me (said he) that you shall both abide mine award, and doe as I shall enioyne you: which they both doing, he straitly enioyned them both, Neuer to depart out of that same church, vntill they had reconciled themselves one of them vnto another, and so became sworne friends. Whereby he wisely without any offence or displeasure vnto himselfe (by giuing of iudgement betwixt them) made them friends, and so with thanks enjoyed the fruit of their friendship and good agreement, than which nothing ought to be more deerer or more precious vnto a prince: for that no fortresses are vnto princes more assured, no castles stronger, than is the loue and fidelitie of their subiects towards them. But here I speake of a good prince, and not of a tyrant which taketh pleasure to see the great men still ruinated one of them by another; neither aimeth at any other marke, but how to flesh the great ones one of them vpon another. Howbeit that it oftentimes falleth out, that the dogges falling vnto agreement among themselves, fall all vpon the wolfe: so as did the factions of the Colonniois and the Vrsins, who hauing discovered that pope *Alexander* the sixt set them still at discord and variance among themselves, so by their calamities and falles to encrease the strength and power of his bastard sonne *Borgia*; they fell to agreement among themselves, and so made head against him their common enemy.

A wise part of Archidamus in making of two great enemies friends.

The craft of tyrants in letting other men together by the eares, sometime dangerous vnto themselves.

D Sometime also a tyrant seeing the nobilitie in the State to flourish with the strength and alliance of friends, and the fauour of the people, and not to seeke one of them anothers ruine, neither to haue any equall aduersaries to oppose themselves against them; doth yet secretly affoord fauour vnto some of the meaner or weaker sort, and so armeth them against the richer and stronger, and by some notable and irremissable villanie by them committed against the other, bindeth them vnto him, in such sort, as that they can neuer be reconciled againe vnto the parties by them so offended. So as *John Bentiuole* the tyrant of Bononia is reported to haue done: who fearing the good agreement of them of the greater sort, easily suffered the chiefe of the house and familie of the *Marrischots* (then the richest and a man of greatest credit in all that countrey) to bee of his enemies slaine, to the end that hee might so bee dispatched of him, and supported of them of the contrarie faction: all reconciliation being by that so great an outrage broken off, and all hope of mutuell friendship vtterly cut a sunder: all which his tyrannicall slights and deceits, together with the fauour of the French king, yet helped him not, but that at length he was thrust out of his estate, and so by violence pluckt headlong euen out of the chiefe strength of his tyranny. But as the bond and obligation of a notable villanie is of all others the strongest, so is it also in euery Commonweale most of all to be feared, for that thereby all the hope of amitie and concord is cut off towards them which haue receiued the iniurie. As it happened to the armie of Carthage, which for want of pay reuolting against the seigneurie or state, vnder the conduct

The obligation of wicked and desperat men grounded vpon some notable villanie, in all Commonweales most dangerous, and how to be suppressed.

duct

duct of two or three of their mutinous capitaines, seized vpon diuers strong townes & places which they rifled and ranfackt: which capitaines and ringleaders fearing to bee by the souldiours at one time or other betrayed and deliuered, perswaded the rest of the chiefe principall men amongst them, to kill the ambassadours of the seigneurie, and to hang vp *Hafdrubal* the Generall with the rest of the Carthaginensians which were fallen into their hands, to the end that hauing bound them by such cruelties, they should now haue no hope at al to saue their liues by composition. In which case there was no other meane for the Seigneurie to vse, but euen plaine force, so vtterly to root them out which could not otherwise be healed: as was afterwards that armie of the Carthaginensians, being by a long and cruell war at length defeated. For why, they had directly banded themselues against the seigneurie: in which case we haue said the prince must of necessity become a partie, and shew himselfe a most sharpe ennemie vnto the rebellious.

How a soueraign prince is to end the quarrels and controuersies that are betwixt the nobilitie.

But if discord and contention be amongst the princes and great men themselues, & that vnder the same soueraigne prince, which yet he cannot either by his princely authoritie, neither by faire persuation, nor hope of rewards, appease; he ought then to giue them arbitrators, men of great integritie and wisdom, and such as they themselues can like of. In which doing the soueraigne prince shall discharge himselfe of the heauinesse of the iudgement to be giuen, and of the hatred and displeasure of him or them that should be condemned. For if this manner of proceeding is and alwayes hath beene commendable for the ending of controuersies euen betwixt kings themselues, by committing their differences vnto the arbitrement of princes; and that all nations vse this manner and fashion: with how much more reason ought a wise prince (as of right hee may) cause his owne subiects to condescend thereunto, and especially them which are neere vnto him in alliance or blood, to the end that their quarrels and contentions should neuer (if it were possible) so farre passe the bounds of reason, as to come to be tried by the sword or force of armes.

Dangerous for a prince not to shew himselfe indifferent in the quarrels and controuersies of his great subiects.

But in ending such controuersies, the prince aboue all things must beware that hee show not himselfe more affected vnto the one part than to the other: which hath bene the cause of the ruine and ouerthrow of many princes and estates. So *Philip* the first king of Macedon was not blame, but for that he openly fauoured *Antipater* against *Pausanias* a meane gentleman, in denying of him iustice; which was the cause that *Pausanias* discharged his choler euen vpon the person of the king himselfe. Neither for any other cause did *Henrie* the sixth, king of England, stirre vp that long and deadly ciuill warre, wherewith all England was in combustion eight and twentie yeares, and wherein were lost about fourescore princes of the royall blood (as *Philip Comines* reporteth) but for that the king tooke vpon him to be capitaine of them of the faction of the house of Lancaster, against them of the faction and house of Yorke: who at length hauing vanquished and ouercome their enemies, put to death the king himselfe in prison, with all the rest of his neere kinsmen. The conspiracie also of the marquesse of Pescara, against *Charles* the emperour, was grounded vpon the fauour that the emperour bare vnto the viceroy of Naples, against the marquesse. It were but lost time to set downe in writing the cruell & bloodie warres which haue bene raised in this realme by *Robert* of Arthois, *Lewes* of Eureux king of Nauarte, *John Montford*, *John* of Burgundie, and diuers others of our time, which it is not needfull to rehearse, and all for the fauours of the kings, who forgetting the high degree of maiestie whereunto they were mounted, would basely take vpon them the offices of aduocats, of iudges, and arbitrators; so descending from the highest vnto the lowest places, so to follow the passions of their subiects, making themselues companions vnto some of them, and vnto other some of them enemies.

But

A But some will haply say, That by this meanes the king shall know newes, and keepe the parties also in awe: whereunto I also well agree, that a young king might so doe amongst his ladies and gentlewomen, to take pleasure & knowledge of news enough, but not amongst his princes and other his great lords. Now if any man shall further object and say, Princes to be oftentimes, yea and that against their will enforced so to doe, and to take a part, when as he which thinketh himselfe wronged, vpon an obstinat mind will not by any reason, perswasion, iudgement, or arbitrement, suffer himselfe to be ouerruled or perswaded. In which case I say, that necessitie hath no law: and yet that the prince before hee may come to that point of extremitie, as to vse his force, ought to proue all the meanes that he possibly may, for the composing of the matter in controuersie, and making of those his great subiects friends: which if it may not be, then by force and strong hand to ouertule that which he could not otherwise doe: For that it cannot be, that he which shall be so froward or presumptuous as not to hearken vnto reason, nor his friends perswasion, can haue many to take his part, or to stand fast by him in that his so great and obstinat wilfulnesse.

When, and how a foueraigne prince is to vse his force for the appealing of the controuersies and quarrells betwixt his great subiects

Yet might some man say, That the occasion of the quarrell may be so secret, as that no prooffe can thereof be made, neither any iudgement giuen, and yet that hee which hath so receiued the iniurie, demaundeth thereof an amends: in which case the princes find themselves oftentimes much troubled, as when an iniurie or offence is vnto any man secretly offered or done, which he which did it denieth, and that the truth cannot therein be tried but onely by bare surmises & coniectures; in this case what is amongst the common and vulgar sort to bee done? it is an easie thing to say, as that no man ought without most manifest witnesses to be condemned: but souldiours, and such as stand vpon their nobilitie, deeme their honour to be stained, and their reputation greatly impaired, except he haue satisfaction, who vpon his oath affirmeth himselfe to haue so bene by any man secretly wronged. For why, such men say, the subiects liues and goods to be all in the princes hand and power to be disposed of, but not their honour and reputation. In which case the people of the North haue for the tryall of the matter appointed combats; as is to be seene in the auntient lawes of the Lombards, of the Salians, the Ripuaries, the English, the Burgundions, the Danes, the Almaines, and the Normans; who in their customes call the Combat, *The law of appearance*: which many for all that haue as a most beastly thing reiected, as neuer receiued or practised by the Assyrians, the Egyptians, the Persians, the Greekes, or Latines, except in lawfull warre, one man against his enemy, and that by the good leane of the Generall of the armie; or else sometime one Generall encountering hand to hand with another, for the sparing of their subiects blood: so *Cossus* and *Marcellus* in battell hand to hand ouercame their enemies kings: Or els one king against another king, as did *Romulus* with the king of the Latines, and *Hundig* king of the Saxons, with *Roe* king of Denmarke. So also *Charles* king of Naples chalenged *Peter* king of Arragon vnto the combat, for the triall of their right vnto that kingdome, which they yet performed not. Neither is this any meane matter, when as *Corbis* and *Orsua* contending for the principallitie before *Scipio Africanus* the Romane Generall, said, That they would haue none other judge, either of God or man, to decide their quarrell, but *Mars* onely. And yet for all that it is better to appoint combats amongst subiects, according to the auntient and lawfull manner of our auncestors, when the persons are of like qualitie which so stand vpon their honour, and that there is some apparant coniecture of the wrong receiued (for why, the auntient lawes neuer admitted combat in a plaine and euident matter, or wherein good prooffe was to be had) for that to deny combat vnto noble personages standing vpon their honour, and at so great oddes as that they can by no other

The beginning of combats.

Combats when to be admitted.

other means be appeased, were but to nourish the fire of ciuill war euen in the entrails of the Commonweale, which after it is once kindled, enflameth the whole body thereof. For that two inconueniences propounded, wise men haue well taught vs, the greater ought stil to be of vs declined. Ioine hereunto also, that to change a custom which hath for many worlds of yeares bene found necessarie, is not onely an hard matter, but withall daungerous also. *Rotaris* king of the Lombards, had taken the law of Combats from amongst his subiects, but yet at their instant requests was enforced to restore the same againe into the former force; protesting withall, That it was but inhumane and naught, (as is in the lawes of the Lombards to be seene) but yet for all that necessarie to auoid greater inconueniences: For that the law of Combat being so taken away, moe good and innocent men were most cruelly and secretly slain and made away, than haply had bene, the daunger and eternall infamie of such hidden treacherie beeing still propounded to the offenders, to be tried by combat. So king *Lewes* the ninth, hauing the honour of God, and the welfare of his subiects before his eyes, was the first that forbad combats in this realme; which edict was thus, *NOVS DEFENDONS BATAILLES PAR TOVT EN NOSTRE DOMAINE EN TOVTES QVERELLES*, *We forbid Combats in all quarrels throughout our dominions*. And for that this edict was euill kept, *Philip* the Faire, king *Lewes* his nephew, caused the like also to bee published, whereby he vtterly forbad combats: who yet within two yeres after was at the instant request of his subiects constrayned to restore them againe, by reason of the secret murders and stabbings, yea euen of the most valiant men, who then were in euery place so slaine. *Philip* of France, surnamed the Hardie, duke of Burgundie, did not altogether forbid combats in Holland, but yet commanded them not to bee at all suffered, without the lawfull appointment of the magistrats: whereas before they were there open and common without iust cause euen to all sorts of men. But it was a thing most barbarous, that *Fronro* king of Denmarke in auncient time appointed all causes and quarrels to bee decided by combat, as the Saxon historiographer saith. Howbeit that the Russians and Hungarians otherwise vse it not, but when there is no euident prooffe of the matter brought in question. But in our remembrance the prince of Melphe, the king his lieutenant in Piemont, found no remedie or meanes better, for the restrayning of the secret murders and mutinies which were ordinarie amongst his souldiours, than combat to be for them appointed, by the leaue and authoritie of the Generall; with condition, That the vanquished should not be spared, but still bee slaine by the victor, and his bodie throwne into the riuier: For which such combats hee appointed a publicke place betwixt two bridges, compassed round about with the riuier: so that the hope of flight or of aid taken away, and that they must either ouercome their enemy, or there shamefully die; the souldiours afterwards began to behaue themselves more modestly, and so liue the more quietly together.

But now, when as to haue the lie giuen one, was neither by the Romans thought to be a thing iniurious, neither that our auncestors had allowed the combat for the lie giuen to another man; it began in our age to be a thing not only contumelious, but euen capitall also; and that especially in the time of *Francus* the first the French king, who in a great assembly of his greatest peers one day said, that he was not an honest man which could endure the lie giuen him. Which he said, hauing by his heraults at armes giuen the lie to *Charles* the fift, for some dishonorable speeches he had giuen of him. Which yet since with vs is growne as it were into a law, so that none of the nobilitie or martiall men, which will put vp the lie, is accounted of, as of a man of any worth or valour, but as of a base or vile fellow. Whereof haue risen great quarrels, brawles, and murders, amongst all sorts of subiects. Which to meet withall, *Henry* the second, who not with-

Combats by diuers great princes forbidden, & for the auoiding of greater inconueniences by them againe allowed.

Of the lie giuen, what is to be thought.

A out much griefe with a great number of his nobilitie, had seene a matter ended by combat, by a perpetuall law forbade controuersies or quarrels to be afterwards so tried. And to the intent that no man, who had rashly receiued the lie, should incurre the note of infamie: *Charles* the ninth reuiuing the edict made by his father, for the forbidding of combats, ioyned thereunto moreouer, That he would take vnto himselfe the honour and reputation of such as found themselves grieved, for that they might not haue the combat for the lie offered them: and yet there was neuer in Fraunce so many murders seene, as when combats were so forbidden. For who should not bee well laughed at, which for the lie giuen him should appeale vnto the judges? And yet in the opinion of the nobilitie and martiall men, he shall seeme to incurre the most heauie note of infamie, which shall not by force of armes repell such a reproach or disgrace offered him. Neither can the frowardnesse (should I say) or vanitie of so foolish an opinion easily be out of mens minds remoued.

But whereas we before said, that the combat is for the auoiding of greater inconueniences to be borne withall, my meaning is not, that it should be by law allowed, but onely in case of necessitie graunted, and that by the princes expresse letters, after the hearing of the parties, and for the auoyding of murders and seditions, which might otherwise ensue. Whereby that inconuenience shall be auoyded, which otherwise without combat could not be provided for, that kinsmen, neighbours, and friends, should for one mans wrong in a sort be enforced to take vp armes, and so to entertaine another mans quarrell: as oftentimes it chaunceth the force and furie of wicked men, to fall vpon the heads of good and worthy subiects. But that is in the hearing of the matter especially to be respected, that combat be not graunted for the triall of any but of capitall causes, and those also whereof no manifest prooffe is to be had or found out: following therein also the auncient lawes, which will, That the vanquished should bee declared infamous, and so disgraced of all his estates and honours, condemned to some shamefull death, if he will not better die of the hand of the victor. Which seueritie of punishment, and feare of infamie, might stay many as well from entring into combats, as also from leading of a quarrellous and wicked life. For *Philip* the Faire hauing forbidden combats, thought it not good otherwise to restore them againe vnto the nobilitie, but vpon the cause before knowne vnto the magistrats, as it was by the old decree of the Senat provided. As by another decree of the same Senat giuen in the controuersie betwixt the countie of Foix and Armagnac, it was said, That combats might not take place, when question was of ciuill right and law, which is yet the custome of them of Berne. And by the lawes of Naples also, it was ordained, That combats should not take place but in cases of treason, and of casuall murder: whereas before it was lawfull in any offence whatsoever to challenge the combat of the aduersarie, thet onely except: which yet I see by the custome of them of latter time, not to haue beene without good cause lawfull. Howbeit that by the lawes of Spaine no iust cause of combat is allowed. And thus much concerning priuat and particulat quarrels, with the meanes to appease the same.

E But if quarrels and contentions arise betwixt whole families, or betwixt whole corporations and colledges of the same citie or Commonweale, and vpon such like causes as doe betwixt priuat men: combats in that case are not to haue place, but the parties so at oddes are by way of iustice to be kept in good peace; or otherwise by force & sharpe punishment to be inflicted vpon the offenders to be kept in awe; yet for all that in such sort, as that iustice should still haue place euen in armes in the execution doing: as it was in Rome, at such time as by a decree of the Senat it was appointed and set downe, That foure hundred innocent slaues should be all put to death; with which vn-

How, and for what cause combats are to be graunted.

Combats not to be admitted for the quarrels and contentions betwixt families.

Seditious arising
for the execution
of iustice, how
they are to be
preuented.

usuall manner of execution the common people all intraged was about to haue taken **F**
vp armes, if the emperor *Nero* had not for the keeping of them in, disperfed the souldi-
ours of his guard into euery quarter of the citie, so to keepe all quiet, vntill that the exe-
cution was done. Whereof *Iustinian* the emperour hauing euen in like case failed,
fell into the great and daungerous sedition (whereof we before spake) which vpon the
sudden set all Constantinople almost vpon a light fire. As not long ago the two most
famous cities of Paris and Antwerpe, were in great tumults and vproares, at such time
as the people saued from execution certaine persons for their religion condemned to
die: whereof the reuolt of the Low countries against the king begun. Neither is this
any new matter, but knowne to haue happened in the glory of the Roman Common-
weale: when as at such time as the Consill had commanded one *Volero* a factious fel- **G**
low to haue the bastenado giuen him, (as the manner of punishing of such offenders
was) the people by force rooke him out of the hands of iustice, euen as hee was to haue
bene stripped, and made him Tribune to defend the popular libertie against the Senat
and the Nobilitie, with whome the people were still at warre, if they had no enemies
abroad. For which cause the Senat and Magistrats chiefe care, was to find out forren
enemies to oppose against the people: or if they wanted such, by all meanes to forge
new enemies and warres, as knowing them otherwise neuer to cease from seditious &
ciuill broyles. For so soone as that the Carthaginensians had made peace with the Ro-
mans, after the first Punique warres, they forthwith entred into a great daungerous ci-
uill warre at home among themselues: which still happened vnto them at Rome, if **H**
they were neuer so little a while without warres. We see also, that they neuer shut vp
the temple of *Ianus*, which was the signe of an vniuersall peace, but twice in seuen hun-
dred yeares space. And if we marke the histories well, wee shall find nothing to haue
bene more daungerous and hurtfull vnto a valiant and warlike people, than peace: For
that men accustomed to warres, and still trayned vp in armes, seeke for nothing els but
dissentions and broyles, neither hate any thing more than to be at rest and quiet. And
that is it for which the histories report *Ca. Marius* to haue bene the best generall of his
time in the warres abroad, but the worst and most troublesome man aliue at home and
in time of peace: for that he well knew not what peace & quietnesse meant. Yet whe-
ther it be better in a Commonweale to traine the people vp in peace or warre wee will **I**
hereafter declare.

Now we haue in some sort touched certaine meanes for the preuening of seditions
and part-takings: but as it is much more easie to stay the enemy from entring, than to
driue him out after he is once entred; so is it more easie also to preuent seditions and tu-
mults, than to appease the same: and yet that more hardly also in a Popular estate or
Commonweale, than in any other. For why, the prince in a Monarchy, and the lords
in an Aristocratie still are, and ought to be, as soueraigne judges and arbitrators of the
subiects: and so oft times of their absolute power and authoritie appeale and quiet all
their differences: whereas in the Popular gouernment the soueraigntie lieth in the peo-
ple themselues, which are so diuided into factions, who in no other acknowledge the
magistrats, but as men subiect vnto their commaund and power. Wherefore in such **K**
Commonweales such seditions and factions are with the greatest care and diligence
that possible is, to be at the first preuented: but if they bee once risen before they were
well foreseene, then it behoueth the most wise and vertuous men in the estate to take
the matter in hand: who by their great wisdom and kind speeches may againe ap-
pease the turbulent motions of headstrong and giddie common people. For as they
which are sicke of a phrensie, which causeth them to skip and daunce without ceasing,
cannot be cured, except the cunning musitian tune his instrument vnto their mad man-

ner

Nothing more
hurtfull vnto a
warlike people
than peace.

Seditious in a
Popular Com-
monweale of all
others most dan-
gerous, and how
to be appeased.

A ner and fashion, to draw them vnto his owne, and so to fall by little and little, vntill that they be so againe made more quiet and tractable : euen so ought also the wise magistrate seeing the people in a rage, at the first to accommodate and frame himselfe vnto their disordered appetite, that so he may afterwards by little and little induce them to hearken vnto reason : and so by yeelding at first vnto the tempest, at length put into the desired haue. For to seeke by force to stay the rage of an angry and incensed multitude, is no other thing than as if a man should by maine strength seeke to stay the force and course of an headie streame, most violently falling from the high and steepe rockes.

And as for them which goe about by force of armes and strong hand to stay the
 B angrie peoples rage and furie, if they bee not verie strong and well assured of the victorie, they put the estate into great perill and danger: for if the subiect become victor, no doubt but that hee will at his pleasure prescribe lawes vnto the vanquished. And admit that the prince himselfe be not vanquished, yet so it is, that if he attaine not vnto the full of his designs, he shall in so doing make himselfe contemptible, giue occasion vnto his other subiects to rebell, for strangers to inuade him, and for all men to contemne him. Which is yet more to bee feared in popular estates, and was most manifestly knowne in the seditions which happened in Rome, wherein they which would needs proceed by force, and openly resist the desires of the people (vp in furie)
 C marred all : whereas to the contrarie, they which sought by faire meanes to win them, still brought them to reason, and so vpheld the state of the citie, otherwise readie to haue fallen. *Appius Claudius* seeing the people of Rome to demaund to haue had the obligations and bands for money lent, canceled, (wherein the richer sort and vsurers had a notable interest) was of opinion, not to haue any thing of the due debt remitted. And at another time the people being reuolted from the nobilitie, hee the same man would haue had them most rigorously entreated, without any regard to haue been had of them at all ; for that the people otherwise would swell with pride, and become insupportable : howbeit, *Seruius* at the first time, and *Menenius Agrippa* at the second, withstood him, and so carried away the matter from him. Which *Agrippa* shewed in
 D deed, and by a most excellent fable of mans bodie and the parts thereof (which hee so liuely set before euery mans eyes) that he caused the armes to fall out of the hands of both parties, and so sweetly againe reconciled the people vnto the nobilitie : wherby he together with the welfare of the Commonweale, and all mens loue, gained also vnto himselfe immortall fame and glorie. And if so be that wild beasts will neuer by strokes be tamed, but by the kind handling of him that tameth them : euen so the people once moued or enraged, as a beast with many heads, and of all others the wildest and fiercest, is neuer by force, but by good and kind vsage and entreatie to be gained. Wherefore in such time of common vprore and tumult, something is to be graunted vnto the people : and if the sedition be raised for famine or for dearth of victuals, some
 E present distribution is to be made, and reliefe giuen vnto the poorer sort, who are not with words to bee appealed. For that as *Cato* the Censor, speaking of the people of Rome, sayd, The hungrie bellie hath no eares. Neither in that case must the magistrats spare faire words or promises, yea more than is euer to be performed. For that the matter so standing, both *Plato* and *Xenophon* giue leaue vnto the magistrates to lie, as physitions to children and their sicke patients. So the wise *Pericles*, to draw the people of Athens vnto reason, fed them with feasts, with plaies, with comedies, with songs and daunces ; and in time of dearth caused some distribution of come or money to be made amongst them : and hauing by these meanes tamed this beast with many heads, one while by the eyes, another while by the eares, and sometimes by the bellie, hee

That the people vp in tumult or sedition, is not by strong hand or open force to be staied or appealed

The hungry belly hath no eares.

The wisdom of Pericles to draw the common people of Athens to vnderstand reason.

then caused wholesome edicts and lawes to bee published, declaring vnto them the graue and wise reasons thereof: which the people in mutinie, or an hungred, would neuer haue hearkened vnto. F

How, and when
the people is to
be flattered.

Yet whereas we haue said, that the people is to be flattered, and to haue something graunted vnto it: yea sometimes euen things vntreasonable; especially in popular and Aristocraticke estates, that is to be vnderstood in time of extremitie, when as it is already vp in sedition: and not for that one ought still to follow the appetite and passion of the insatiable people, and without reason: But euen to the contrarie, it is so to bee gouerned, as that it be not too hard curbed, neither yet left with the reines at too much libertie. For as it is a right slipperie high standing place to serue the appetite and pleasure of the vnsteady people, so is it yet much more dangerous also, openly to oppose a mans selfe against it: so as did *Appius, Coriolanus, Metellus, Cato the younger, Phocion*, and *Hermiodorus*, who whilest they would haue all things of the people by strong hand, and rather breake than bow, they did either vtterly vndoo themselves together with the Commonweale, or at leastwise brought it into most great perill and danger. True it is, that for the prince or magistrats thus to temper maiestie with clemency towards an vnruely and headstrong people, without iudgement and reason, is a most hard and difficult matter: yet is there nothing more necessarie, especially in Popular gouernments, than not too much to flatter, neither yet to deale too roughly with the people. But as the Sunne goeth, rising and setting with the other starres and planets, dayly carried about with the most swift motion of the superiour celestiall spheres, and yet for all that faileth not to performe his owne naturall course by retiring backe by little and little; and that by how much the higher he is mounted, vp from the Horizon, the lesser hee seemeth for to be: Euen so ought the wise gouernour to doe, following in part the affections and desires of the troubled people, so much the more easily afterwards to attaine vnto the full of his designs. And albeit that a prince had the power by force to repress and reforme a mutinous and rebellious people, yet ought he not so to doe, if otherwise he may appease them. For what Physitian is there so inconsiderat, as to vse sections, and cauterisings, or burnings, if the disease might otherwise be cured? And so what prince is there so euill aduised, as by way of force and fact to proceed against his people, if with a kind word speaking hee may appease all? But especially in a Popular estate, wherein it beseemeth the wise magistrat, by all faire means to appease and quiet the passions of a troubled people, in laying plaine before their eyes the euill successe which may ensue of their so euill and disordered proceedings. We read thereof many examples, but yet none more famous than that of *Pacuvius Calpinus* of Capua, who being accounted a great fauourer of the comminalltie, and an vtter enemy vnto the nobilitie of that citie, yet vnderstanding of a purpose that the people had vpon the sudden to kill all the Senators of the citie, which so cruell a murder hee greatly detested, but yet seeing the common people so resolutely set downe vpon the matter, as that they were not to be remoued, he himselfe made show also, as if he had as well as any of the rest liked of that the peoples will and purpose, yet withall gaue the Senators to vnderstand of the great daunger they were in, and of the purpose he had for the safegard of their liues, willing them to bee of good cheere, and to feare nothing. And so afterwards the Tribune or chiefe leader of the mutinous people, hauing shut vp all the Senators into a strong place, as men appointed for the slaughter: but indeed so to preserue them from the present furie, hee then with a merrie and chearefull countenance comming forth vnto the angrie people, spake vnto them thus, *That which you men of Capua haue oftentimes wished for, That it might once be in your power to be re-* G
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Force neuer to be
vsed against the
people, where
faire meanes may
preuaile.

The commendable
deceit of *Pacuvius*,
to deceiue
the angry people.

uenged

A ngered of the most wicked and abhorrible Senat; you now haue the same put into your hands, not by vpror: and tumult, by assaulting and breaking open their houses one by one, which they keepe and defend with strong companies and guards of their seruants and friends, but euen at your pleasure, and without danger. Receiue them all shut vp in the court, where I will giue you power to pronounce sentence of euery one of their liues. But before all things it behoueth you so to satisfie your anger, as yet to deeme your owne health and welfare better than the satisfying of your rage and wrath. For a Senat you will not altogether bee without: for that you must needs either haue a king, which is a thing to be abhorred, or els a Senat, the onely Councell of a free citie. Wherefore two things rest for you to doe, the one that you take out of the way the old Senat: and the other, that you chuse a new. And this said, hee sat downe; and to the Senatours names beeing all put into a pot, hee commaunded the first name that was drawne out to bee read, and him so named, to bee brought out of the court. Is it your pleasure then (said hee) that this man shall first die? Whereunto all the people cried aloud, That it was well said of him, and well done. Well, I see then (said Pacuuius) what his doome is: let him bee cast out; and now for him an euill and wicked man, make you choyce of a good and vpright Senator to bee put into his place. Whereupon they all at the first were silent, for lacke of a better to make choyce of: but as soone as one more impudent than the rest had named one, presently a greater crie was heard than before; some crying out, That they knew him not; other some exclaiming as fast against him as a naughtie base fellow, of some beggerly trade or other, and so vnworthy of the place: The like sturre there was, when choyce was to bee made of the second, and third Senator, the base artificers and trades-men still nominating some one, and some another: in such sort, as that they now began to fall out among themselves, about the choyce, none of them beeing willing to yeeld or giue place to other, which whilest they did in euery Senator which was named, there was no lesse trouble and sturre among themselves, than was before betwixt them and the Senatours. Whereupon they were better contented that the old Senatours should now still hold their places, than to suffer one of them to bee preferred before another. Wherein the councell of the Tribune was right wise, and cunningly by him put in execution: who after hee had by his wise dissimulation somewhat appeased the mad peoples rage, hee as it were with his finger poynted out, and layed open euen vnto euery mans eye, the great hurt and inconuenience that was to ensue, by putting the Senatours to death: as that not onely such a shamefull murder should for euer bee accounted most cruell and inhumane; but that also, by the dooing thereof the Commonweale should bee without councell, as a bodie without a soule; and the fire of sedition raised also amongst the people, about the preferment, and them that were to bee preferred.

E But if the people once enraged be alreadie vp in armes, it is a most hard and dangerous matter to appease them: in so much as that not long agoe there was one that set fire on his owne house (least the Commonweale should with the flames of sedition euen then haue perished) so to turne the citizens then together by the eares to leaue the fray, and to come to helpe to quench the fire, for feare least all should haue beene burnt. Then if any man there bee in verue and valour exceeding the rest, who will with good speech take vppon him to persuaade the people vnto peace and concord, hee onely, or else none is the man that may appease the peoples franticke furie and rage. Which thing *Virgil* most excellently expressed in these few verses following,

The mutinous people best appeased by the good perswasion of some good old vertuous personage.

*Ac veluti magno in populo cum sepe coorta
Seditio est, sauitq; animis ignobile vulgus;
Iamq; faces & saxa volant, furor arma ministrat:
Tum pietate grauem ac meritis si forte virum quem
Conspexere, silent, arrectisq; auribus astant:
Ille regit dictis animos, & pectora mulcet.*

And as a sudden tumult rais'd amidst a people great,
When as the base and rascall sort are in the greatest heat,
And firebrands now and stones do flie, such weapons as there lye,
Then if some good graue worthy fire they fortune to espie,
They silent with attentiu eare stand listning to his lore:
He with good words their minds doth rule, and calmes the whole vprorc.

Such we said *Pericles* to haue bene in Athens, *Menenius Agrippa* in Rome, and not long agoe *Peter Loredan* in Venice, who at such time as the marriners and sea-faring men banded themselues against the rest of the citifens, and in such sort massacred one another, as that neither duke, neither the Senat, nor other magistrat could come nie, but that they were by force and violence of the furious people reiected; this plaine gentleman *Peter Loredan* (I say) a priuat citifen, and bearing no office at all, showing but himsele in the middest of these combats, and holding but vp his hand on hie, caused the weapons to fall out of euery mans hand, for the reuerence they all bare vnto the vertue of so graue a personage; and so as it were in a moment appeased all that ciuill discord. Whereby it was to be seene, vertue to be of greater power and maiestie than armes, than lawes, yea than all the magistrats together.

There is also in the reuerend feare of religion a great power for the staying of the tumultuous people. For at such time as the Florentines were fallen out into such a furie among themselues, as that the citie swome with the blood and slaughter of the citifens: and that they could by no meanes be parted, *Francis Soderin* the bishop attired in his bishoplike attire, and attended vpon with a company of priests, and a crosse carried before him, came into the middest of the furious citifens, so bandying it one against another; at the sight and presence of whome, they all for the reuerend feare of religion vpon the sudden laid downe their weapons, and so without more adoo, got themselues home euery man vnto his owne house. So also *Iadus* the Iewes high Priest, in his *Pontificalibus* met *Alexander* the Great comming towards Hierusalem with his victorious armie, with whose port and maiestie *Alexander* terrified, worshipped the High Priest, and was so farre from ransacking either of the countrey or holy citie, as that he gaue it great priuileges, with whatsoeuer the High priest els requested. With like wisdom pope *Urban* is reported to haue turned *Attila* king of the Hungarians from the siege of Aquilia.

But sometime such is the deadly hatred of citifens amongst themselues, as that they need of the helpe of their friends and allies, yea and sometimes euen of meere strangers to set them agreed. In which case an other good old man of Florence seeing the citifens without pity to kill and massacre one another, and on all sides to burne one anothers houses, went to request the Luquois their neighbours and friends, to interpose themselues for the appeasing of these so deadly broyles, as had well neere ruined the whole estate: Wherewith the Luquois mooued, came in great numbers, by whose good trauell and mediation all those slaughters and broyles were well stayed and quited: a thing both commendable and profitable, not to them onely which are so set a-

Peter Loredan a most notable citifen.

The reuerend feare of religion a good meane for the appeasing of the seditious people.

Seditions sometimes appeased by the interposition and mediation of friends.

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agreed,

- A** agreed, but euen to them also which were the workers therein, as reaping thereby great honour, together with the loue of them whom they so made friends. Yea oftentimes it happeneth, that the citifens deuided into factions, weary at length of their murders and tumults, seeke but to find an occasion for them to fall to agreement; yet being of opinion it to touch them in honour, that should first seeke for peace, therefore continue their bloody quarrels vntill that they haue vtterly ruinated one another, if some third man interpose not himself betwixt them for the making of them friends: which thing oftner happeneth in popular or Aristocratike commonweales, than in a monarchie: wherein the subiects are by the power and authority of one onely prince still to be set at one, & reconciled amongst themselves, together with the commonweale.
- B** Howbeit, that sometime it happeneth the soueraigne prince to make himselfe a party, in stead of holding the place of a soueraigne Iudge: in which doing for all that he shall be no more but the head of one party, and so vndoubtedly put himselfe in daunger of his life, and that especially when such dangerous seditions and factions be not grounded vpon matters directly touching his estate, but otherwise, as it hath happened almost in all Europe within this fifty yeares, in the warres made for matters of religion: for we haue seene the kingdome of Sweden, of Scotland, of Denmarke, of England, the Cantons of the Swissers, yea and the Germane empire also, to haue changed their religion, the estate of euery of these monarchies and commonweales yet standing entire and whole: howbeit that the truth is, that it was not done, but with great violence, and much bloudshed in many places.

Nothing more dangerous vnto a prince, than in sedition to make himselfe a partie.

- C** But religion by common consent once receiued and settled, is not againe to be called into question and dispute, that so all the wayes and entrances vnto sedition and faction may be stopped, and the assurances of vnity and peace strengthened; for that all things called into disputation, are so also but as things probable called in doubt: and what can come neerer to impiety then by probable arguments to call in doubt the lawes of God, which are by their nature immutable and eternall; and such as of the truth whereof euery man ought to be most certainly resolved and assured. Besides that, nothing is so firme and stable, nothing so manifest and cleare (except it rest vpon most playne and vndoubtfull demonstrations) which may not by disputation and force of arguments be obscured or made doubtfull; and especially where that which is called
- D** into question, or dispute, resteth not so much vpon demonstration or reason, as vpon the assurance of fayth and beleefe onely: which they which seeke by demonstrations and publishing of bookes to performe, they are not onely mad with reason, but weaken also the foundations and grounds of all sorts of religions.

It is dangerous to call that into question which ought to be holden as resolved vpon.

Religion once receiued and settled, to be no more called into question or doubt.

- There is a most antient law of *Licurgus* extant, which the Florentines (of all others the sharpest disputors) established in their popular estate, viz. *Ne de legibus semel receptis ac probatis desererere liceret*, That it might not be lawfull to dispute or make question lawes once receiued and allowed. For why he of others the wisest, well vnderstood, lawes disputed and reasoned vpon to bee still doubted of; which doubting brought
- E** with it an opinion of the iniquity thereof; whereof must needs follow the contempt both of the lawes and magistrats, and so consequently the ruine and destruction of the whole commonweale. But if Philosophers and Mathematicians cannot abide to haue the principles of their sciences reasoned of, what great folly, or rather madnesse is it to dispute not onely priuately, but euen openly also of religion already approved. Howbeit that *Anaxagoras* maintained the snow to be blacke, and *Fauorinus* the Quartaene feuer to bee a very good and wholesome thing; and *Carneades* hauing one day highly commended iustice, the very next day preferred iniustice before it, and that it was (without all comparifon) better to be a verie knaue than a vtuous honest man:

which they all so persuasively did, as that they drew a great number of men to bee indeed of their opinions. Although *Aristotle* said them which made question, whether snow were white or not, to want sence: but them which doubted whether there were a God or not, not to be with arguments refuted, but by the lawes punished: howbeit that he himselfe by necessarie demonstration proued there to be one euerlasting God, and that there could be no moe gods but he. Wherefore, all the kings and princes both of Affricke and of the East, doe most straitly forbid all men to dispute of their religion. Which like strict prohibition is also set downe by the lawes and decrees of Spaine. So also the king of Moscouie seeing his people, who had receiued the rites and ceremonies of the Greekes, diuided into diuers sects and factions, by reason of the diuers preachings and disputations of the ministers: hee thereupon forbad them vpon paine of death any more to preach or dispute of religion; and withall gaue a booke vnto the bishop and parish priests, wherein was contained what hee would haue euery man perswaded of, and to belecue, concerning matters of faith and religion; which he commaunded them vpon all feastiuall dayes to reade and publish vnto the people: with a capitall paine thereunto annexed, if by any mans exposition any thing were at all thereunto either added or diminished. And *Moses*, when hee had most curiously written all those things which he had learned and receiued from Almighty God, and declared the same vnto the people: yet in one chapter of the law (the people yet wandering vp and downe in the desert) he commaunded the priests and Leuits aloud and distinctly to reade the law, yea, and that dayly also, that so it might bee vnderstood and knowne vnto the people of euery age and sexe: and so in another chapter forbad any thing to be vnto the lawes of God either added or detracted. Yet sayth hee not, that they should dispute thereof: but euen to the contrarie, the Hebrewes instructed by the prophets from the father to the sonne: they teaching the law of God in seuen Colledges, which then were in mount Syon, neuer yet suffered men to enter into disputation thereof, as we read in *Optatus Mileuitanus*. For why, disputation was inuented but for things probable and doubtfull; and not for things religious and necessarie, and such as euery man is bound to belecue: which by disputation are alwaies made doubtfull. Wherefore seeing that disputations of religion bring not only the doubt and ouerthrow of religions, but euen the ruine and destruction of Commonweales also; it behooneth them to be by most strait lawes forbidden: which after long ciuill war was by the estates and princes of the Germane empire provided for, and a decree made, that the princes should with mutuall consent defend both the Romane and Saxon religion: whereunto that was also ioyned, That no man should vpon paine of death dispute of the religions. Which seuer punishments, after that the Germane magistrates had inflicted vpon diuers, all Germany was afterwards at good quiet & rest: no man daring more to dispute of matters of religion. Morcouer, seeing that not onely all wise law-giuers and Philosophers, but euen the very Atheists themselves also (as namely **Polybius* himselfe an Atheist) are of accord, That there is nothing which doth more vphold and maintaine the estates and Commonweals than religion: and that it is the principall foundation of the power and strength of monarchies and Seignories: as also for the execution of justice, for the obedience of the subiects, the reuerence of the magistrats, for the feare of doing euill, and for the mutuall loue and amitie of euery one towards other, it is by most strait and seuer lawes to be provided; that so sacred a thing as is religion be not by childish and sophisticall disputations, (and especially by such as are publickely had) made contemptible, or by probable arguments made doubtful, and so at length quite taken out of the minds, both of the hearers & of the disputers together. Neither are they to be heard which thinke themselves to be able with more subtil

* Lib. 3.

Disputations of religion dangerous.

* Lib. 6. De militari: ac domestica Romanorum disciplina.

^c The power of religion.

A reasons to perswade all things : for that as *Papinian* most wisely said, *Summa ratio est que pro religione facit*, It is of all the greatest reason, which tendeth to the maintenance of Religion.

I will not here in so great varietie of people so much differing among themselves in religion, take vpon me to determine which of them is the best (howbeit that there can be but one such, one truth, and one diuine law, by the mouth of God published) but if the prince well assured of the truth of his religion, would draw his subiects thereunto, diuided into sects and factions, hee must not therein (in mine opinion) vse force: (For that the minds of men the more they are forced, the more froward and stubborne they are; and the greater punishment that shall be inflicted vpon them, the lesse good is

Religion not to be enforced.

How a prince well assured of the truth of his religion is to draw his subiects thereunto, being therfore diuided into sects and factions

B to be done; the nature of man being commonly such as may of it selfe bee led to like of any thing, but neuer enforced so to doe) but rather it behoueth the prince so perswaded of the truth of his religion, without fainting or dissembling to professe and follow the same, still deuoutly seruing the almightie God: by which meanes he shall both turne the will and minds of his subiects vnto the admiration and imitation of himselfe, and at length also plucke vp euen the verie rootes of all sects and opinions: In which doing he shall not onely auoid commotions, troubles, and ciuill warres, but lead also his straying subiects vnto the port of health. Whereof as there are many examples, so is there none more fit for this our purpose, than that of *Theodosius* the elder,

C who at the beginning of his raigne found all the prouinces of the empire full of *Arrians*, whose strength and power was so growne and encreased vnder three or foure *Arrian* emperours their fauourers, as that their doctrine was not onely by eight counsels confirmed, which were at diuers times assembled at Tyre, at Sardis, at Sirme, at Milan, Seleucia, Nice, Tarsis, and especially at Ariminum (where six hundred bishops were of their opinion: and but three of name which held the contrarie) but that they also punished other their aduersaries of opinion contrarie vnto themselves, with confiscations, proscriptions, and other most grieuous punishments. Yet would not this good emperour now come vnto the empire, either force or punish the *Arrians*, although that hee deadly hated them, but graunted vnto them both the *Arrians* (I say) and the *Catholikes*, their churches, and suffered them in euerie towne to haue two bishops, of either religion one: and albeit that hee at the importunat suit and instance of the *Catholike* bishops, commaunded certaine edicts to bee published against the *Arrians*, yet was hee well contented to haue the same holden in suspence, and not put into execution; as his letters vnto *Ambrose* in these words declare, *Trade Arrianis Basilicam, mei namque sunt omnia iuris*, Giue (saith hee) vnto the *Arrians* a church: for that all are in my power. Which thing *Rotaris* also king of the *Lombards* by his law permitted. And yet neuertheless this emperour liuing according to his religion, and instructing his children & kinsmen in the same, wonderfully diminished the *Arian* sect in Europe: howbeit that they haue euer since continued, and so yet do, both in Asia and

E Affrike, vnder the law of *Mahomet*, grounded vpon the same foundation. The great emperour of the *Turkes* doth with as great deuotion as any prince in the world honour and obserue the religion by him receiued from his aunccestours, and yet detesteth hee not the straunge religions of others; but to the contrarie permitteth euery man to liue according to his conscience: yea and that more is, neere vnto his pallace at Pera, suffereth foure diuers religions, viz. That of the *Iewes*, that of the *Christians*, that of the *Grecians*, and that of the *Mahometanes*: and besides that, sendeth almes vnto the *Calogers* or religious *Monkes*, dwelling vpon the mountaine *Athos* (being *Christians*) to pray for him: as did *Augustus* to the *Iews*, to whom he ordinarily

sends

sent his almes and perpetuall sacrifices to Hierusalem, which hee commaunded to bee F
there dayly made for the health of himselfe, and of the Commonweale. For why the
people of auntient time were perswaded, as were the Turks, All sorts of religions which
proceed from a pure mind, to be acceptable vnto the gods. And albeit that the Romans
easily admitted not straunge religions into their Commonweales (as in the warres
against them of Veios the *Ædiles* had in charge, *Ne qui nisi Romani dij, neu quo alio mo-*
re quam patrio Colerentur, That no gods should be worshipped but the Roman gods,
neither after any other manner than after the manner of the countrey) yet for all that
did they easily suffer euery man priuately within the citie to vse his owne manner and fa-
shion, and his owne religion: yea the Romans themselues receiued into the citie the
sacrifices of *Isis* and of *Esculapius*, and suffered the Pantheon to be dedicated to all the G
gods. Only the Iewes of all people detested straunge ceremonies: whereby they pro-
uoked the hatred of all people against them. For at such time as *Antiochus* the Noble
besieged Hierusalem, the Iewes tooke truce with him for eight dayes, wherein they
might keepe holy the Feast of their deliuerance out of *Ægypt*, dedicated vnto the ho-
nour of the immortall God: Whereunto *Antiochus* (as *Plutarch* writeth) willingly
condescended; and yet not so contented, with great reioicing brought also bulles and
rammes for the furnishing of the sacrifice euen vnto the gates of the citie. Howbeit
that afterwards the time of the truce expired, he tooke the citie and sacked it. But as
he was about therein to haue sacrificed after the manner of the Greekes, the Priests &
Leuites cursing and banning, forsooke the Temple. For which cause *Antiochus* enfor- H
ced them, as contemners of the gods, to receiue the Greeke ceremonies and sacrifices,
yea and caused hogges also to be killed in the temple, and the Iewes to bee enforced
to eat of them, tormenting such as refused so to do with all kind of torments and tor-
tures, which in that citie wrought the change both of the religion and state. But *Pto-*
lomeus Lagus (as *Agatharchides* writeth) and after him *Pompeius*, after long siege hauing
taken Hierusalem (the same day that the Iewes had before taken truce with *Antiochus*)
yet both of them kept their hands from sacrilege: which *Crassus* did not, neither *Flac-*
cus: whome yet *Cicero* denieth to haue taken any gold belonging vnto the temple;
in which oration, as serued for his purpose, hee said, The gods of the Iewes to haue de-
liuered their seruants from the bondage of the Romans. So that the Iewes detesting I
the gods of other nations, caused all other people and nations most grieuously to hate
and contemne them: For at such time as *Quadratus* being President of Iudea, a com-
mon souldiour had in contempt showed his rayle vnto the Iewes, as they were sacrific-
ing in the temple, such an vprore and tumult ensued thereof, as that twentie thousand
of the Iewes were there slaine. At which time the Iewes by a decree of the Senat, were
driven also out of Rome: where *Tiberius* caused such as would not remoue thence, ei-
ther to chaunge their religion, or to become slaves; but this was done in Rome onely.
For the same *Tiberius* forbad *Pilat*, who had determined to haue placed certain shields
and escutcheions in the temple of the Iewes, to place the same, or to alter any thing of
their religion. But *Alexander Seuerus* the emperor in his priuat sacrifices worship- K
ped *Abraham*, *Orpheus*, *Hercules*, and *Christ*. But when the Christians as well as the
Iewes, had begun to detest those thirtie thousand gods which *Pindarus* now in his
time worshipped, and so began to breed a contempt of the gods in the minds of men,
the princes and magistrats began likewise with most grieuous punishments to persecute
them, except they would forswear *Christ* and the Christian religion, the Iewes (bea-
ring themselues vpon the antiquitie of their religion) being become their accusers and
enformers against them, least they should seeme partakers of the same impietie with
them. And thus as the multitude of religion and sects was innumerable, some dete-
sting

A detesting the rites and ceremonies of others : so thereof proceeded also the diuers and manifold chaunges of Commonweales . And albeit that tyrants had before exercised incredible cruelties vpon their subiects , yet neuer thought they it lawfull for them to rule ouer mens minds before the time of this *Antiochus* , whome wee but euen now spoke of . Which was the cause that *Theodoricus* king of the Gothes (though fauouring the Arrians) would not yet enforce the conscience of his subiects, nor haue them tormented for their religion ; least vnder the pretence of impietie hee should haue seemed to haue taken the spoyle of their goods, or bind their minds , which could by no threats or commaunds be constrained or bound . For so he writing vnto the Senat at Rome, yseth these words, *Religionem imperare non possumus, quia nemo cogitur ut credat inuitus*, Religion (saith he) we cannot commaund , for that no man is compelled against his will to beleuee : as we read in *Cassiodore* : Which reason of all others seemeth vnto me most effectuell , for the taking away of such punishments , as are vnder the colour of religion to be inflicted vpon the subiects . Wicked and straunge rites & ceremonies, and such other as the greater part of the subiects of greatest power detest, I thinke it good and profitable to haue them kept out of the Commonweale . For the preseruatiō of the subiects loue amongst themselves, which is especially nourished & maintained by their consent and agreement in matters of religion : yet if the same religion be liked of by the opinion of neighbour nations , and of many of the subiects, then ought it not onely with punishments not to be restrained, but also so much as may be provided, that if it may not without sedition bee publickly professed , yet that no man be forbidden the priuat exercise of such his religion . For otherwise it shall come to passe, that they which are destitute of the exercise of their religion, and withall distastefull of the religion of the others , shall become altogether Atheists (as wee daily see) and so after that they haue once lost the feare of God , tread also vnder foot both the lawes and magistrats, and so inure themselves to all kinds of impieties and villanies, such as is impossible by mans lawes to be redressed . Howbeit what letteth vs to follow the counsell of the most holy prophets, of whom * the one perswaded his countrymen led away into captiuitie into Chaldaea, That at such time as they should bee enforced to fall downe before the idols, yet that they should with a pure mind alwayes worship the euer liuing God : & the * other admitted the request or excuse of *Naaman* the king of Syria his seruant, but newly instructed in the true religion and seruice of God, if he were present with the king his maister sacrificing vnto a straunge god , so that hee kept his mind pure and cleane from idolatrie. For they are much deceiued, which think Commonweales to be better kept in order by mens commands and lawes, than by the feare of God his iudgements . For as the greatest tyranny is nothing so miserable as an Anarchie, when as there is neither prince nor magistrat, none that obeieth, neither yet any that commaundeth , but that all men liue as they list at libertie in all loosenesse of life, without feare of punishment . So the greatest superstition that is, is not by much any thing so detestable as Atheisme . And truly they (in mine opinion) offend much, which thinke that the same punishment is to bee appointed for them that make many gods, and them that would haue none at all : or that the infinitie of gods admitted, the almightie and euerliuing God is thereby taken away . For that superstition how great soeuer it be, doth yet hold men in feare and awe, both of the laws and of the magistrats ; as also in mutuall duties and offices one of them towards another : whereas meere Atheisme doth vterly root out of mens minds all the feare of doing euill . Wherefore two inconueniences propounded, Superstition (I say) and Atheisme , we must still decline the greater : yet when we may not publickly vse the true religion, which still consisteth in the worshipping of one almightie and euerlasting God : least by contemning

No man to be compelled against his will to beleuee.

To forbid men the priuat exercise of their religion, is to make them oftentimes to become Atheists.

* Baruch.

* Heliseus.

Atheisme worse than the greatest Superstition.

of the religion which is publicly receiued, we should seeme to allure or stirre the sub- F
iects vnto impietie or sedition, it is better to come vnto the publike seruice, so that the
mind still rest in the honour and reuerence of one almightie and euer liuing God.

Why many sects
better agree in a
Commonweale
than two onely.

But now, whereas some men maruell how it came to passe, that in the time of *Theo-*
dofus, considering the diuersitie of sects and of religions that then were, they could so
stand without ciuill warres, being then at the least an hundred diuers sorts of them ac-
cording to the account of *Tertullian* and *Epiphanius*: whereof the cause was, the multi-
tude and varietie of such different opinions, which so still held one of them in counter-
poise with another. Now in matters of sedition and tumult, nothing is more dange-
rous, than to haue the subiects diuided into two opinions or factions onely, whether it G
be before matters of estate, or of religion, or for the lawes and customes, or other mat-
ters whatsoeuer that the subiects are so diuided. For that but one thing can by nature
be contrary vnto another thing: and moe things than one to be contrarie vnto one, is a
thing not to be imagined. So that where there be moe than two sects or sorts, there
must needs be some in the meane betwixt the two contrarie extreames, which may see
them agreed, which otherwise of themselves would neuer fall to agreement. And ther-
fore *Solon* by law provided, That in ciuill seditions and troubles, euery man should of

Whether Solons
law for part-
king, as that eue-
ry man should be
of necessitie
bound to take ei-
ther the one or
the other part in
time of sedition,
be good and pro-
fitable vnto Com-
monweale or not

necessitie take either the one or other part, and that it should not bee lawfull for any
man to stand as neuter: which vnto many seemed a thing vnreasonable, considering
that the greatest prayse and commendation of a good subiect is; to bee a quiet ciuill
man, desirous and doing the best that he can to liue in peace. Besides that, by this means H
the conscience of an honest man is forced, to take either the one or other part, when as
haply he thinketh both naught, and that they are both in the wrong. And that more
is, it may so happen, that if in such seditions he will follow that part which hee iudgeth
the better, he must beare armes euen against his father, against his brethren, and friends,
which are in armes in the other side: which were the way so to compell men to com-
mit vnnaturall murders, and to kil euen them whom we ought to defend, & to deprive
them of life, by whom we our selues liue. In briefe; the law of God forbiddeth him that
knoweth the truth, to follow the common opinion of them which are out of the way:
whereunto *Solons* law seemeth to repugne, in forcing a man to take either the one part
or the other, although that they be both naught. Howbeit that a man might say vn- I
to the contrarie, this *Solons* law to be most profitable and necessarie also vnto Popular
and Aristocratike estates, wherein is no soueraigne, which standing as neuter, may de-
termine and decide the differences of them which shall so bee at discord and variance.
For men well know, that the most craftie men in time of ciuill warres, withdraw them-
selves so much as possibly they can out of the preasse, if they be not well assured of the
victorie of the part that they themselves take (if it bee not so, that they see the daunger
such, as that the publike fire is like to take hold and burne euen their own priuat houses)
yea oftentimes the more subtil and deceitfull sort set the rest at dissention and debate,
that so they may themselves the better fish in troubled water, and make a bridge for
themselves to passe ouer, to ceize vpon other mens goods and honors: imitating ther- K
in the priests of *Mars*, whome the auntients called *πυροφόροι*, or *Fire-bearers*, who ha-
uing orderly performed their solemne exectations, cast fire brands betwixt both armies
standing readie ranged, and so stirred them vp to battell: but yet retired themselves
in safetie out of the medley and daunger. Now if the law of *Solon* might take place,
these fire makers durst not sow debate and discord among the citizens, seeing that they
must themselves then run into the same danger with others. And as for other honest
men which loue peace, and like neither of the one nor other faction, if they must needs
be constrained to take a part, they will then enforce themselves by all means to preuent
seditions,

A seditions, and in what they may to withstand them: or if they cannot be foreseene, yet to do what they may to appease them. For why, the great vertue and authoritie of good subiects is of great force to keepe the rash and mad vulgar people in some order: and to perswade them being disquieted againe vnto reason, who would euer be at ods and variance, if they were not by the good counsell of the wiser sort better perswaded. By which reasons *Solons* law seemeth to be vnto cities and Commonweales profitable. Besides that, if in the leagues and societies of princes among themselves, it be good and profitable for them all, some one of them to be of greater power than the rest, or at leastwise to ioyne himselfe with them that bee of greatest power: how much more true and profitable is it in ciuill warres still to take the one or the other part: where hee

B which standeth as neuter, as he is of no man protected, so lieth he open to the common spoyle of all men. For so *Theramenes*, who all the time of the Peloponesian war, and the troubles of the Athenians, had kept himselfe quiet, and stood still looking on, but as an idle beholder, without taking part either with the one or with the other, was himselfe at the last forsaken of all, and so left vnto the mercie of the tyrants, who made him a miserable spectacle vnto all men, and in the end most cruelly put him to death. Hee therefore which will stand as neuter, whether it be in ciuill warre, or in warres amongst strangers, ought at the least to doe his endeouour to set the rest agreed: or if hee shall see the quarrels, warres, and ruines of others, to tend to the profit of the better sort, or the assurance of his estate, his wealth or person (as it sometimes happeneth that tyrants and wicked subiects or citisens agree not but for to ruinate the good) yet ought he which so standeth as neuter, to show himselfe in appearance desirous and forward to set them agreed: which many men haue done euen then when they most nourished and maintained such quarrels in the most secret manner they could: *A thing which God* (as *Salomomon* saith) *abhorreth*: if it be not in case (as I haue said) that the concord and agreement of the euill, tend to the ineuitable ruine and decay of the good. For as for one good vertue, there are many vices one of them quite contrarie vnto another; and that for one good man, there be ten which are nothing worth: so God hath also appointed, That the euill and wicked men should euen one of them by another be brought to ruine and destruction: *I will reuenge me* (saith God, speaking by the mouth of the prophet *Ieremie*) *of mine enemies, by mine enemies*. I haue said, that good princes and good subiects ought to dissemble the good and pleasure they take in the discord and contention of other the wicked princes or citisens; for that there is nothing which grieueth a man more, than to see others in all securitie, to take pleasure and reioyce in his ruine and decay.

The dangerous estate of them that stand as neuters in time of sedition.

Proverb. 4.

Thus haue we seene certaine meanes for the appeasing of tumults and seditions amongst many. For which there might yet some more particulars bee also rehearsed; as to take away the vse of belles from rebellious or seditious citisens: so as wee read to haue bene done in the rebellions at Montpelier, and at Bourdeaux, which were yet afterward vnto them againe not without a great fine restored: howbeit that the greater part of the inhabitants of Bourdeaux most instantly requested, That they might not be so restored, hauing felt the commoditie that came thereby. But whether well or euill, I leaue it to the resolution of euery man of sound iudgement. The great emperour of the Turkes, with the other princes of the East, haue taken strait order, That this inuention of belles, first deuised in Italie, should not into any of their dominions or territories be receiued: whereby they haue well auoided one of the greatest occasions of ciuill tumults and broyles. The noyse and backward ringing of the belles (as when houses be on fire) being not onely proper vnto straunge accidents, and to put the mutinous people into armes, but also to trouble euen the quiet spirits of peaceable men,

The vse of belles, why in many countries forbidden.

and to thrust fooles headlong into fury: as did he, who the more to sturre vp the people rung the Tocaine, together with the great bell at Bourdeaux, and was therefore himselfe hanged in the belrope, as he had well deserued. F

The best and surest way to prevent sedition.

Another and the most vsuall way to prevent sedition, is to take away the subiects armes: howbeit that the princes of Italy, & of the East cannot endure that they should at all haue armes; as doe the people of the North and of the West: no more then they did in auncient time in Greece and in Asia. For so *Aristotle* speaking of the Barbarians, accounteth it for a strange thing, that a man should in a quiet and peaceable citie weare a sword or a dagger in time of peace: which by our lawes, as also by the manners and customes of the Germaines and Englishmen is not onely lawfull; but by the lawes and decrees of the Swissers euen necessarily commaunded: the cause of an infinite number of murders, hee which weareth a sword, a dagger, or a pistoll, being more fierce and insolent to offer vnto others iniury, as also to commit murder if any iniurie be offered him: whereas if he were disarmed, he should doe neither the one nor the other; neither should yet incur the infamy and disgrace which followeth them, who when they are wronged, dare not to draw their weapons. The Turkes herein go yet farther, not onely in punishing with all seuerity the seditious and mutinous people, but also by forbidding them to beare armes, yea euen in time of warre, except it bee when they are to giue battell: wheras otherwise if the enemy be not nie, they lay their armes vp in their tents, or in their carriages: and yet they are accounted the best soldiers of the world: which if they doe in the field, and in time of warre, what is it to be thought them to doe in their townes, and in time of peace? G

The common wearing of weapons in a peaceable Commonweale, the occasion of many evils.

Amongst many the lawdable manners and customes of the policy of Paris, there is one a very good one, and well put in execution, which is, That no car-man or porter shall weare sword, dagger, knife, or any other offensive weapon, and that for the murders by them committed in their ordinarie quarrels which they still had one of them against another: which if it might take place vpon all persons: also a thousand murders and stabbings are committed, which should neuer haue happened, neither the seditions and broyles rayfed, which haue vpon this occasion bene in many places kindled. For it is not the part of a wise politician, neither of a good gouernour, to expect vntill the murder be committed, or that the sedition be rayfed, before he forbid the bearing of armes, but as a good phisition preuenteth diseases: and if chauce be that the partie be sodainly attainted with any violent griefe, he first asswageth the present paine, and that done applyeth conuenient remedies vnto the causes of the disease: euen so the wise prince ought (so much as in him lyeth) to prevent sedition, as also when they are happened to appease them at what charge soeuer: and then afterward to looke into the cause of the diseases farthest off from the effects, and so thereunto to apply remedies conuenient. H

Impunitie of offenders to draw after it ruine of estates.

Now we haue before spoken of the causes which worke the chaunge of estates and commonweales, of which selfe same causes proceed also seditions and ciuill warres, as of the denyall of iustice, of the oppression of the common people, of the inequall distribution of punishments, and of rewards; of the excessiue riches of some few in number, and extreame pouertie of the greater sort; of the too great idlenesse of the subiects, or of the impunitie of offenders: and it may be that this last point is therein of greatest consequence or importance, and yet the least of all regarded. Which as I haue before touched, so must I also oftentimes repeat the same, for that the princes and magistrats which desire to be accounted mercifull, do oftentimes turne vpon their owne heads the same punishment that the offenders deserued. And that is it for which the wise Hebrew hath so oftentimes aduised vs, Not to become suretie for another man: not for that he I

K

forbid-

A forbiddeth a charitable dealing one of vs towards another (as many haue thought) but rather to giue all men to vnderstand, That they which become sureties for wicked men, and so find meanes to deliuer them from deserued punishment, shall beare the pain of the offenders guilt therefore. As was said to king *Achab*, who had saued the life of *Benadab* the king of Syria, whom hee should haue put to death, God caused it to bee told vnto him by his prophet, That he was become suretie for another man, and that it should surely cost him his life therefore. Which being but spoken in particular vnto this one king, extendeth yet in general vnto all princes and Commonweals, who haue no more certaine cause of their ruine and decay, than the want of the due execution of iustice. To punish the rebellious, is also one of the meanes to preuent and meet with rebellions yet to come, which how it is to be done we haue before said, when as wee reasoned of punishments to be vpon corporations and colledges inflicted; which is to take place when some one corporation, or the least part of the subiects haue erred or offended; but not if all the people in generall, or the greatest part of them be in fault: For albeit that the physitian or surgeon sometimes for the preservation of the whole bodie, cuts off a mans leg or arme, yet must he not therefore cut off the head, or any other of the principall members, if they shall chance to be infected: but therein follow the wise counsell of the great Physitian *Hippocratts*, who vnto desperat diseases forbiddeth vs to apply any remedy at all. But beside the causes of seditions & rebellions, which wee haue before spoke of, there is yet another, which dependeth of the immoderat libertie of speech giuen to orators, who direct & guide the peoples hearts & minds according to their owne pleasure. For there is nothing that hath more force ouer the minds of men, than hath eloquence: So that our ancestors haue not without cause puttraied *Hercules Celsique* not as a yong & strong man with a great club in his hand, but as a reuerend bauld old man, drawing after him a great number of people enchained, & hanging by the eares with chaines, which all issued out of his mouth; to shew, that the armies and power of kings and monarchs are not so strong as the vehemencie and force of an eloquent man, who encourageth & enflameth the most cowardly & faint hearted to vanquish euen the most valiant, who striketh armes out of the hands of the most couragious, who turneth rage into mildnesse, & barbarisme into ciuility, who changeth whole Commonweals, and sporteth with the people at his pleasure. Which I say not for the prayse of eloquence, but to shew the force & power therof, which is oſther emploied to euill, than to good. For seeing that this is nothing els but a disguising of the truth, and an art to make that seeme good, which is indeed naught, & that right which is wrong, and to make a great matter of nothing, as of an Emot an Elephant (that is to say, an art to lie cunningly) wee need not doubt, but that for one which vseth this art well, fiftie vse the same euill, & that amongst 50 Orators it is hard to find an honest man. For that to seeke after the plaine & bare truth, were a thing altogether contrarie vnto their profession, seeing that the best rule that *Cicero* giueth vnder the person of *Marcus Antonius* the Orator, is to say nothing against himself: or rather as *Aristotle* saith, So well to disguise matters, as that the deceit thereof cannot not be discovered: or to speake more plainly, to couer all things with lies and dissimulation. So that if we will but wel looke into al them which had the name to haue beene the most noble and famous Orators, we shall find them to haue beene still the stirrers vp of the people to sedition, to haue oftentimes changed the laws, the custonis, the religions, and Commonweals, yea & some others of them to haue vtterly ruinated the same; in which doing they haue also almost all of them ended their dayes by violent death. Which it is not needfull here to proue by the Orators of Athens, or of Rome, but euen by those of our age, who haue so well besturred themselues, as that vnder the colour of religion they haue trou-

The immoderate libertie of speech giuen vnto Orators a great cause of seditions and rebellions.

The force and power of eloquence.

bled all the empires both of Affrike & of the West: yea and many of them so wrested the scepters euen out of the kings hands. As it happened vnto the king of Marocco, descended (as is supposed) from the house of *Ioseph*, from whom a preacher vnder the vaile of religion tooke both the crowne and scepter: & albeit that he was commonly called the *Asse Knight*, yet preached he so well, as that he assembled an armie of sixscore thousand men to take his part. In like sort he which was first called the *Sophi*, inuaded the kingdome of Persia, and in short time draue out the children of *Vsun Casan* the lawfull king, vnder the same coulour of religion. As also not long agoe *John* of Leiden (who of a botcher became a preacher) ceased vpon Munster the Metropolitick citie of Westphalia, and there taking vpon him the state of a king, was hardly after three yeares siege by the imperiall armie thence remoued. And by the selfe same meanes *Hierome Sauanarola* a preacher, incited by *Anthonie Soderin*, vpon the contention which happened among the inhabitants at Florence, about the estate, so much prettailed with his persuasions vnto the people, as that hee translated the soueraigntie from the nobilitie vnto the people, and chaunged the Aristocratick into a Democratick or Popular estate. No otherwise than had before *Ephialtes*, by the setting on of *Pericles* by his seditious orations, drawne vnto the people the soueraigntie of that state, taken from the Senat of the Arcopagi; and so made the Athenian estate of all others the most Popular. And to be brieft, we haue seene all Germany in armes, and an hundred thousand men slaine in lesse than in a yeare space, after that the mutinous preachers had stirred vp the people against the nobilitie. How often hath the speeches of preachers bene heard, tending by all meanes to haue incited the princes and people to kill, massacre, & burne their subiects: as did in auncient time *Nestorius*, preaching before the emperor at Constantinople in this sort, *Giue me emperor, the earth void of heretikes, and I will giue thee heauen: destroy with me the heretikes, and I with thee wil ruinate the power of the Persians*: for which he was called the *Fire maker*: For had the emperor giuen credence vnto him, he had so put to death the greatest part, and almost all his subiects, and *Nestorius* himselfe first of all. Wherefore a knife is not more daungerous in the hand of a mad man, than eloquence in the mouth of a mutinous Orator. And yet neuerthelesse it is a meane for them which will well vse it, to reduce the people from barbarisme to humanitie, to reforme disordered maners, to correct the lawes, to chastice tyrants, to cast out vices, to maintaine vertue. And as men charme the Aspis, Vipers, and Serpents, by certaine words; euen so the Orators (as *Plato* saith) by the sweetnesse of their eloquent persuasions, charme euen the most sauage and cruell people. Neither is there any other greater or better means for the appeasing of seditions & tumults, and to keepe the subiects in the obedience of their princes, than to haue a wise and vertuous preacher, by whom they may bend and bow the hearts of the most stubborne rebels, especially in a Popular estate, wherein the ignorant people beareth the sway, and cannot possibly bee kept in order but by the eloquent Orators: which for this cause haue alwayes holden the chiefe degree of honour & power in such Popular estates, causing the honourable charges & commissions, gifts and rewards, to be still giuen to whom they saw good: so that in brieft both peace & war, arms and laws, wholly depended on the pleasure of the Orators. And so to the contrarie, there is nothing more to be dreaded in a tyrant, than the Orator which hath the bent of the peoples bow, and is in credit & estimation with them, especially if he hate the tyrant, or his Tyrannickall gouernment. But forasmuch as the rules by vs already set downe, ought to bee applied vnto the nature of Commonweals, and that the Commonweals, laws & customs, are likewise to bee fitted vnto the nature & disposition of euery nation: Let vs now also speake of the nature of al people, as of a thing most necessary for the good gouernment of Estates and Commonweales.

Eloquence in an euill man as dangerous, as a sword in a mad mans hand.

A wise, vertuous, and eloquent preacher, of all others the fittest man to appease rebellions, and to keepe the people in obedience to their prince.



THE FIFT BOOKE OF OR CONCERNING A COMMONWEALE.

CHAP. I.

¶ What order and course is to be taken, to apply the forme of a Commonweale to the diuersitie of mens humors, and the meanes how to discover the nature and disposition of the people.



hitherto we haue treated of that which concernes the generall Estate of Commonweales; Let vs now shew what may be particular to some, through the diuersitie of peoples humors, to the end that wee may accommodat the publike weale to the nature of the place; and the ordinances of man to the laws of nature, wherof many haue had small regard: but striving to make nature obedient to their edicts, haue oftentimes troubled, yea ruined great estates. And yet those which haue written of a Commonweale, haue not treated of this question. For euen as we see a great varietie in all sorts of beasts; and in euery kind some notable alteration for the diuersitie of regions: in like sort we may say, that there is in a manner as great difference in the nature and disposition of men, as there is of countries: yea in the same climats the people of the East are found to differ much from them of the West. And in the same latitude and difference from the Equator, the people of the North differ from them of the South: And which is more, in the same climat, latitude, and longitude, and vnder the same degree, we find a difference betwixt a hilly countrey and the plaines: so ar in the same citie, the diuersitie of hills and vallies forceth a diuersitie of humors and dispositions: And townes seated vppon vneuen places, are more subiect to seditions and chaunges, than those that are built vppon an equall and plaine ground. The citie of Rome, which hath seuen hills, was neuer long without sedition. And *Plutarch* (hauing not duely examined the cause) dorth wonder why there were three factions in Athens of diuers humors: those of the high citie, which they called *Aristu*, demaunded a Popular State; those of the base towne required *Oligarchia*, or the gouernment of few; and the inhabitants of the Port Pirce, desired an Aristocraticall State, that is, a mixt gouernment of the nobilitie and the people: whereof wee will soone shew you a naturall cause. And if *Theophrastus* find it strange that the people of Greece be so different in manners and dispositions, who would not admire to see such contrarie humors in one and the same citie? we cannot impute it to

The nature of the people is much to be regarded in the framing of a Commonweale.

Townes vneuenly built vppon mountaines and vallies, are subiect to seditions.

the mixture of people which haue come thither from all parts, seeing that *Plutarch* F
 speaketh of *Solons* time, when as the Athenians were so little mingled with any other
 nations, as they held for certaine, that they were issued out of the land of Attica, wher-
 in the Orator *Aristides* doth glorie. In lik sort we say the Swissers (hauing their ori-
 ginall out of Sweden) to be verie different in manners, nature, and gouernment: for
 although they be more strictly allied than euer any nations were, yet the fise small can-
 tons of the mountaines, and the Grisons, are held more fierce and more warlike, and do
 gouerne wholly popularly: the rest are more tractable, and are gouered by an Aristo-
 cratie, being more enclined thereunto, than to a Popular estate. It is needfull to haue
 a speciall care to the nature and inclination of the people, if wee will chaunge an estate
 as it happened in Florence, about an hundred years since, when as the Commonweale G
 by succession of time was almost changed into *Aristocratia*, the citisens beeing so en-
 creased, as they were forced thirfe to enlarge the compasse of their walles. For the
 preuention whereof the Senat was assembled, and the matter propunded: whereas
 the Senatour *Vespucius* did show by liuely reasons, That an Aristocraticall estate was
 without all comparifon the most sure, and farre better than a Popular gouernment;
 giuing for an example the state of Venice, flourishing vnder the commaund offew gen-
 tle men: but *Antonie Soderine* maintained a Popular estate, and preuailed; saying, That
 the nature of the Venetians was proportionable to an Aristocratie, & the Florentines
 to a Popular estate. We will soone shew if his grounds were true. We read also, that
 the Ephesians, Milesians, and the Siracusians were almost of the Florentines humor: H
 for they could not endure any but a Popular estate, nor allow any one to exceed his
 companions, banishing euen those that surmounted in vertue: and yet the Athenians,
 Ephesians, and Milesians, were much more mild and tractable; so were they much
 neerer the East: and contrariwise the Siracusians, Florentines, and Carthaginians, were
 much more fierce and rebellious, beeing more Westward. The people of the East
 haue much more ostentation and many words, in the iudgement of all auntient wri-
 ter, and euen of the ambassadour of the Rhodors, excusing the fault of his maisters, vp-
 on their naturall inclination, making mention also of the naturall vices of other people,
Gentes alie (inquit) iracunde, alie audaces, quaedam timide, in vinum ac venerem pronio- I
res alie sunt, Atheniensium populum fama est celerem & supra vires audacem ad conan-
dum, Lacedemoniorum cunctatorem: non negauerim & totam Asia regionem inaniora
parere ingenia, & nostrorum tumidiorem sermonem esse, Some nations (said he) are cho-
 lerike, others bold; some fearfull, others prone to wine and women; the peole of
 Athens are said to be sudden, and exceeding bold to attempt any thing; the Lacede-
 monians are slow and deliberat: I will not denie, but that all the region of Asia brings
 forth vaine wits, and ours great talkers. The people of Athens (said *Plutarch*) were
 cholerike and pitifull, taking pleasure in flatteries, and enduring easily a scoffe: but those
 of Carthage were cruell and reuengefull, humble to their superiours, and imperious to
 their subiects, faint hearted in aduersitie, and insolent in prosperitie. The people of
 Rome contrarie vnto them were patient in their losses, constant in their victories, mo-
 derat in their passions, hating flatterers, and taking delight in graue and seuer men: so
 as the elder *Cato* demanding the Centorship of the people, said, That they had need
 of a seuer Censor, threatning to punish vice with seueritie: yet the people desired ra-
 ther to chuse him that threatned them, being but of a meane calling, than the greatest
 noble men that flattered them: The like they did to *L. Torquatus*, whome the people
 did chuse Consull without his priuitie: vnderstanding of his election, he told the peo-
 ple, That his disposition was such, as he could not tollerat their vices, neither could the
 people endure his commaundements; and therefore if they were wise, they should
 make

To frame an e-
 state, we must ap-
 ply it to the na-
 ture of the sub-
 iects.

Guichardin.

The humours of
 sundrie people.

Linus lib. 4.

Notable differen-
 ces betweene the
 Atheniens, Ro-
 mans, and Car-
 thaginians.

Plut. in Catone
 Censorio.

A make another choyce : yet was he chosen againe by the people. That which I say may be easily discerned by the difference of the Athenian and Roman Orators : for these did more respect the maiestie of the people , than those of Athens, who abused the people with such insolencie, as one of them hauing assembled the people for matters of state, after that he had made them to attend him long, in the end he came into the pleading place, with a garland of roses, saying vnto them, That hee had resolved that day to feast his friends, and so departed : whereat the people laughed. Another time *Alcibiades* speaking to the people , let flie a quail out of his bosome, and the people run after it, and brought it to him againe . If he had done this in Carthage (saith *Plutarch*) before the people, they would haue stoned him : the Romans would not haue suffered it unpunished ; for that a citisen of Rome was deprived of his Bourgeship, for that hee had yawned too lowd before a Censor , as *Valerius Maximus* doth testifie.

Therefore a wise gouernour of any Commonweale must know their humours, before he attempt any thing in the alteration of the state and lawes. For one of the greatest, and it may be the chiefest foundation of a Commonweale, is to accommodat the estate to the humor of the citizens ; and the lawes and ordinances to the nature of the place, persons, and time. For although *Baldus* saith , That reason and naturall equitie is not restrained nor limited to a certaine place : that is to bee vnderstood , when as the reason is vniuersall ; and not whereas a particular reason of places and persons receiues a private consideration . For which cause wee must varie the estate of the

A good Architect fits his building according to the stufte he finds vpon the place.

C Commonweale to the diuersitie of places ; like vnto a good Architect, which doth fit his building according to the stufte hee finds vpon the place : So should a wise Polititian doe, who may not chuse what people he will . As *Isocrates* said in the prayes of *Busiris* king of Ægypt, whorne he esteemeth very much , for that hee could chuse a countrey and a people the fittest in all the world to gouerne . Let vs first speake of the nature of the people of the North and South, and then of the East, and West, and the difference betwixt the mountainers & those that liue in vallies, or in moorish places, or that are subiect to violent winds : then will we shew how much discipline may change the nature and disposition of men, reiecting the opinions of *Polybius*, and *Galen*, who held, That the countrey and nature of the place did rule necessarily in the manners of

D men . And the better to vnderstand the infinit varietie which may be betwixt the people of the North and South, we will diuide all the nations that inhabit the earth, or this side the Equator, into three parts : the first shal be of thirtie degrees on this side the Equator, which we will attribute to the burning Regions, and people of the South : & the thirtie degrees next, to those that inhabit the temperat regions , vnto the sixtieth degree towards the Pole, and from thence vnto the Pole shal bee the thirtie degrees of the nations of the North, and the regions that be exceeding cold . The like diuision may be made of regions beyond the Equator, towards the Antartike Pole : then wee will diuide the thirtie degrees of the burning regions into the moitie, the fiftene first being more moderat, betwixt the Equator and the Tropickes ; the other fiftene more burning, vnder the Tropicks : and by the same meanes we will take the fiftene degrees following of the temperat region , which stretcheth vnto the 45 degree , which hold more of the South , and the other fiftene vnto the sixtieth degree, the which are more distempered in cold, and incline more to the North : and in the fiftene following, vnto the 75 degree , although that men bee much afflicted with cold , yet are there many nations and Commonweales . But as for the other fiftene adioyning to the Pole, wee must make no account of them ; for that there are few men, which liue in caues like vnto brute beasts (as marchants do report , and histories haue certified .) I haue giuen the reason of these diuisions in a particular booke of the Method of Histo-

A diuision of people.

The heat is greater vnder the Tropick, than vnder the Equator.

Olaus and Saxo Grammaticus.

ries, and therefore need lesse now to enter any further into it. These points being concluded, it shall be more easie to iudge of the nature and disposition of the people. For it is not sufficient to say, that the people of the North haue force, with bignesse & beautie of the bodie, and little wit: and contrariwise, that the Southerne nations are weake, little, blacke, and haue great wits: for that experience doth teach vs, that those people which liue in the extremities of the North, are little, leane, and tamed with cold; the which *Hipocrates* doth confesse, the which we must reconcile with the rest, in setting the limits as I haue said. And the saying of *Hipocrates* shall bee vnderstood of those nations that inhabit beyond the 70 degree towards the Poles. We will also allow of the opinion of *Hippocrates*, and after him of *Aristotle*, who haue written, That the people of the North haue a flaxen and fine haire. And yet *Galen* saith, That they haue the haire red: the which we must vnderstand of those that are about the 60 degree, whereof there are many in England, whome the inhabitants say are issued from the Danes and Swedens, who inuaded England; noting them by their red haire. But from the Baltique sea vnto the 45 degree, and on this side, the people haue commonly flaxen haire. And in old times, when as nations were not so mingled as since they haue bene, they did know a Northerne man by his flaxen haire and his greene eyes; as *Plutarch*, *Tacitus*, *Iuuenal*, and in our times the Baron of Heberstein haue obserued: and as I haue discoursed in my booke of the Method of Histories, and shewed that *Amiot* in his translation of *Plutarch*, vpon the towne of Marius, tearmes them red and chequer eyes: whereas he should haue called them greene eyes: the which is verie apparant. But those which are about the 60 degree, haue in a manner all eyes like vnto Owles, and the colour of the water lookes white in their eyes: they haue a weake sight by day, and see better in the darke, like vnto night Owles, which they call *Nictalopes*. Of this I was assured of the ambassadour *Pruinski*, a Lituanian, and of *Holster* Commissarie of the warres, borne at Ostolcome in Sweden, who is haired like a Kow, and eyed like an Owle: which colour, force, and bignesse, comes (as *Aristotle* saith) of the interior heat: as the inhabitants of Affrike haue blacke eyes, for the little heat they haue in their interior parts, being exhaled by the heat and drought of the sunne: whereas the cold doth keepe in the heat in the Northerne regions, if it be not so vehement as it doth in a maner quench it: for which cause those that inhabit beyond the 75 degree, are weake, little, and tamed with extreame cold, the which is so vehement, as many die; as the merchants report. And euen the baron of Heberstein writes, That the spittle freezeth sometimes before it falles to the ground, the which may seeme incredible. But it is most certaine that the Baltique sea freezeth in such sort, as whole armies passe from the maine land to the ilands; although the heat in sommer is sometimes so violent, as it burnes not onely the fruits of the earth, but also the houses and villages, as the same author writes that it hath happened in Moscouie, in the yeare 1524. The which also chanced in Polonia, in the yeare 1552, as *Thomas Cromer* writes. And the like chaunced in England, in the yeare 1556, as I haue seene by letters from *M. de Nouailles* ambassador in England for the French king: in the which he doth assure, That the heat had bene so vehement, as the flame kindled by the sunne, burnt the fruits and villages throughout a whole countrey. The which *Aristotle* doth affirme in his Problemes, That the heat is more violent in cold countries than in hoat: but that is to bee vnderstood in warry places. And whereas there is some mountaine which doubleth the heat by reuerberation; as it happened in the towne of Naim in Gascoine, the which was wholly burnt with the heat of the sunne at noone day, in the yeare 1540: and the towne of Montcornet neere vnto Laon, the which was burnt in the moneth of May, in the yeare 1574, after a straunge manner, the fire flying through the streets, and through places farre distant

Aristotle & Hipocrates agree herein.

The difference of the people in the Northerne regions.

In the history of Moscouie.

The heat more vehement in sommer in cold countries than in hoat.

- A** stant from the houses where it first began : for the situation thereof is waterish , as I haue said ; and the grossefesse of the vapour retaines the heat , the which the maisters of hoat houses know full well ; who to spare wood , cast water into their stoues . The Northerne parts then being full of waters , lakes , and fountaines , the vapors which are drawne vp into the ayre , receiue and retaine the heat more violently : as in the Southerne parts it is more vehement vpon the earth . For euen as the heat is more violent in mettall than in wood , and in great wood than in small brush : so the sun hath more effect vpon the earth than in the ayre ; and in a vaporious ayre in moyst regions , than in a dry countrey , wherens the ayre is subtile , and without any sensible bodies : which may be the cause that God hath made the Southerne countries more rainie , and lesse waterish : and those places which are moyst in the Southerne parts , lie commonly towards the North , and are couered with mountaines towards the South , as Aquitaine (which is so called for the aboundance of waters) hath the Pyrenean hilles . Barberie hath mount Atlas , which is wonderfully high , out of the which the springs and riuers rise all towards the North (as we read in *Leo* of Affrike) also the sun casting his beams perpendicularly vpon the countrey , would make that inhabitable , the which is one of the most fruitfull and best peopled countries in the world . And euen as in winter the places vnder ground , and the inward parts of creatures , retaine the heat which doth evaporat in summer : euen so it fares with people that inhabit the Northerne parts , which haue the inward heat more vehement than those of the Southerne regions : which heat causeth the forces and naturall powers to be greater in the one than in the other : and which also doth cause the one to eat more , and to digest better than the other , for the coolenesse of the region which keeps in the naturall heat . So as those armies which come from the Southerne parts into the North , are more vigorous and lustie ; as it was seene in the armie of *Hannibal* passing into Italy , and the armie of Moores and Arabians , which haue come into Europe : and of seuen thousand Spaniards which passed into Germanie , vnder the emperour *Charles* the fift : and of fortie thousand Gascoines , which went to succour the king of Sweden , who obtained goodly victories . And contrariwise the armies that come out of the North , grow weake and languish , the more they goe towards the South , yea euen in sommer ; as it appeared in the Cimbrians , of whome *Plutarch* witnesseth . That they were all molten with sweat , and languished with heat which they felt in Prouence , the which would soone haue consumed them all , although they had not bene vanquished by the Romans : as it happened to the French before Naples , & to the Lanquenets which passed into Italie , vnder the commaund of *Charles* of Bourbon and of *George Fronsperg* , of the which after they had sackt Rome , there died ten thousand without any blow , before the yeare was expired , as *Guichardine* writes . This doth also plainly appeare in the troupes of cattell which goe out of the North into the South , they loose their fatnesse , and their milke , and fall away : the which *Plinie* hath noted , and the marchants find it true by daily experience . And euen as the Spaniard doubles his appetite and forces , comming out of Spaine into Fraunce ; euen so the French loose their appetites and languish , going into Spaine : and if he will eat and drinke as he doth in Fraunce , he is in daunger not to continue it long . And euen the nations of the Northerne regions fall a languishing and fainting of the heart , when as the Southerne winds blow : the same reason doth teach vs , why that men and beasts , yea and birds which most suddenly feele this alteration , grow fat in winter , and leane in sommer . If *Leo* of Affrike , and *Francis* of Aluares , (who haue written the histories of Affrike and Ethiopia) had well obserued this reason , which is naturall , they had not so highly commended the abstinence of those people : for they cannot haue any appetite , the interiour heat wanting in them . Neither must we blame the

Why the sunne is
hoater on the
earth than in the
ayre.

What places in
the South are
most subiect to
waters.

Why the armies
of the North lan-
guish when they
go towards the
South.

Why the people
of the South be
abstinent.

Why the people
of the North are
more hungry.

The people of
the middle regi-
ons are better
tempered in wit
and bodie.

The greatest em-
pires were in the
middle regions.

The people of
the North disper-
sed throughout
all the Roman
empire.

Esai. 14. 41.
Ezek. 16. 51.
Dan. 8. 48.
Mach. 1. 1.

the people of the North, for that they are more hungry, and deuoure more than they of the South, considering the inward heat and greatnesse of the men. The same effects are found in the Antartike regions : for wee read in the Histories of the Indies, That *Magellan* found neere vnto the strait which he called by his own name *Giants Patagenes*, so great and mightie, that eight Spaniards armed were troubled to hold one ; but otherwise verie simple. The people of the North get it by force, and they of the South by policie : so they of the middest participat of the one and the other, and are more fit for warre, by the iudgement of *Vegetius* and *Vitruuius* : and therefore they haue erected great empires, the which haue flourished in armes and lawes. And the wisdome of God hath so well distributed his graces, as he hath neuer ioined force with excellencie of wit, neither in men nor beasts : for there is nothing more cruell than iniustice armed with power. The people therefore of the middle regions haue more force than they of the South, & lesse pollicie : and more wit than they of the North, & lesse force ; and are more fit to commaund and gouerne Commonweales, and more iust in their actions. And if we looke well into the histories of all nations, we shall find, That euen as great armies and mightie powers haue come out of the North ; euen so the hidden knowledge of Philosophie, the Mathematikes, and other contemplatiue sciences, are come out of the South : and the politike sciences, lawes, and the studie thereof, the grace of well speaking and discoursing, haue had their beginning in the middle regions, and all great empires haue bene there established ; as the empire of the Assyrians, Medes, Persians, Parthians, Grecians, Romans, Celtes. And although that the Arabians & Moors had for a time ceased vpon the empire of Persia, Syria, Egypt, and Barbarie, & brought a good part of Spaine vnder subiection, yet could they not subdue Greece nor Italie. And whereas they would haue subiected Fraunce, they were vanquished, and their armie of 300 thousand men (which they had brought) defeated. In like sort the Romans haue stretched forth their power ouer all the nations of the South and East, but they preuailed little against them of the North and West : & although they were conquerors ouer all other people, yet they imploied all their forces, & had somewhat to do to make resistance against the Northerne nations, who neither had walled townes, fortresses, nor castles ; as *Tacitus* saith, speaking of the Germans. And although that *Traian* had made an admirable bridge vpon the riuer of Danow, and vanquished *Decebalus* king of Daciens ; yet the emperor *Adrian* his successour, caused it to bee broken downe, fearing least the people of the North (hauing such a passage open) should enter into the heart of the Roman empire : as they did after that the emperor *Constantine* had discharged the Roman legions, which guarded the riuer of Rhine and Danow : For soone after the Almans, then the Gothes, Ostrogothes, Vandales, Franks, Bourguignons, Herules, Huns, Hongres, Lombards ; and in succession of time, Normans, Tartars, Turkes, and other nations of Scithia, inuaded the Prouinces which the Romans had held. And although the English haue had great victories ouer the French and conquered the country which lieth South to them, yet for these nine hundred yeres they could neuer expell the Scottish men out of the island ; and yet it is well knowne how much more populous France is than England, and England than Scotland. We may obserue the like in the Turkes, a Northerne nation, who hath extended the greatnesse of their empire to the goodliest regions of Asia, Affrica, and Europe, hauing in a manner subdued all the islands of the Mediterranean sea ; yet haue they bene defeated by the Tartarians, & are much trouled to make head against the Moscouits. We read, that God did threaten his people by the oracles of his prophets with the nations of the North, foretelling that warre murder, and the ruine of Commonweales should come from thence. For although that men be much diminished in numbers, force, proportion

- A portion, vigour, and age, in respect of the auncients (a complaint of most writers by the historie of *Plinie*) so hardly vpon the face of the earth shall you now find a citie comparable to Capua (containing thirteene miles in circuit) much lesse matchable to the famous Babylon, which though it were situated foure square in a leuell soile, yet could a good foot man hardly trauell round about it in three dayes: but this notwithstanding in multitudes of people, in strength of bodies, and large proportion of members, the Northerne prouinces do at this day farre excell the Southerne. In regard whereof that militarie discipline of the Romans, which priuiledged souldiours at fiftie yeares from future seruice, was not allowable amongst the Lacedemonians; who being nothing inferiour to the Romans, either for strength of bodie, or warlike experience,
- B yet freed their people from the seruice thereof, at fortie: the reason being, for that they were so much the more vnable to hold out so long as the Romans, by how much the one nation approached more neere to the South than the other. So bring a Scythian from his native habitation to the South, and you shall find him presently to droop, and fall away with sweat and faintnesse. And therefore the pirats of the Mediterranean finding by experience, that the English and Dutch captaines are vnfit for paines-taking in those hoat countries, in their markets prize them at a verie low rate. For the people of the North are inwardly hoat, enioying a most dry aire, and therefore more thrifitie than the Southerne, who inwardly are cold, according to the propertie of the South, a climat moist by nature. Wherein the Grecians deriuing, *Νότον, παρὰ τῆς ὑπερίδος*,
- C *i. ab humore*, from moisture, are to be beleueed; experience teaching vs, That when the winds blow from the South, we expect showers; but when from the North, faire weather and cleere skies. For which reason the people of the North are and haue alwaies bene great drinkers, witnesse the Greeke prouerbe, To drinke like a Scythian, the which *Tacitus* hath not forgotten, speaking of the manners of the Germans, *Diem noctemque (inquit) continuare potando nulli probū, ita ut crebra inter vinolentos rixae fiebant*, They held it no disgrace (saith he) to sit all day and night drinking: so as oftentimes there fell out iarres among these drunkards. The which is not the fault of the men, but of the region: For such as trauell from the South to the North, will eat and drinke no lesse than they that are home bred. But *Tacitus* was deceiued, in saying, That the Germans did drinke more and eat lesse, by reason of the coldnesse and barrennesse of the countrey. But contrariwise seeing that thirst is nothing else but an appetite of cold and moisture, and that hunger is an appetite of drought and heat; and that the people of the North haue the interiour heat much more in comparison than those of the South, they must of necessitie drinke more. In like sort the people of the Northerne regions haue their skins softer, more hairie, and subiect to sweat than the people of the South; which haue the skin hard, little haire and curled, and the skin withered with drinesse, enduring heat easile without sweating: but they cannot well beare with cold, nor wet; as appeared in the Spaniards, which died of cold in great numbers vpon the high mountaines of Peruaia. And no wonder, for men bred and brought vp in hoat regions, in colder places inwardly waxe chill, whose bodies if any extraordinarie or sudden alteration of wether attache (an accident often happening in those Sotherly quarters, especially vpon the tops of those high hills) it must needes follow, that their naturall heat, both inward and outward, do vterly forsake them: the contrarie whereof betideth the Scythian, who by nature being inwardly hoat, by cold becommeth so much the more able and couragious, by how much the cold forceth the outward heat vnto the heart, the true seat and center of liuely heat. Yea the report, how subiect the Southerne people through want of inward heat are to loosenesse and the bloody flixe, almost passeth credit, albeit most true: Whereas on the contrarie the countries situated
- North.

Lacedemon more
Southerly than
Rome.

The reason why
they of the North
drinke more than
in the South,

Northwards, abounding with riuers and lakes, do enure mens bodies to fogges & cold moistures, and that in such able manner, that Scythians do oftentimes defeat their enemies by their ambuscadoes hidden in deepe marishes; testified by *Herodianus*, who writeth, That the Germans infested the Romans with their missiue weapons, themselves standing safe in the midst of the waters. Which secret of nature *Galen* not well vnderstanding, seemeth to wonder at, especially for bathing their new borne infants in cold running riuers; a custome vsed in like manner by the Aufonij,

*Natos ad flumina primum,
Deferimus, seuoque gelu duramus & undis :*

Our new-borne babes at first to springs we bring,
T'endure cold stormes their bodies so enuring.

The ground of which German custome *Julianus* surnamed the *Apostata* writeth to be, that this people held an opinion, That the true borne children would flote vpon the waters, but the base and bastards would sinke to the bottome. And euen as the people of the North doe languish soone with heat, so are they soone wearied and tyred with labour in the Southerne parts, or in a hoat season. The which was first knowne at the battell of Plombin, whereas the Celtes being inuironed with two armies of the Romans, fought valiantly: but after they had spent their first furie, they were soone vanquished. *Polybius* saith, That to vanquish the Celtes, you must but ward their blows for a time, and yet they were held inuincible. *Cesar* holds the same opinion of the Gaules, That in the beginning of a battell they were more than men, but in the end lesse than women. The which is more naturall to the Germans, and other people of the North (as *Tacitus* saith) who had knowne them by long experience: For the Gaules, especially those of Languedouich, hold the middle region betwixt the cold and extreame heat, although the qualitie of the Westerne region makes the country more cold. And those which are in the midst are impatient of cold or heat: the which *Cesar* doth witnesse of the Gaules, who suffer cold more easily than the Spaniards, and heat than the Germans. And euen as the people of the middle regions hold of the two extreames in humor, so doe they agree with the one and the other in manners and complexions: and as God by his admirable wisdom doth vnite all things by conuenient meanes to their extremities. In like sort we see that hee hath obserued the same order betwixt the nations of the North and South, which can neuer concur together for the contrarietie of manners and humors that is betwixt them. The which is a thing verie considerable, when there is any question to treat a peace, or to make a league betwixt two nations so contrarie, or to lead them both forth to the warre together; you must place that nation betwixt them that doth participat of both their natures, and that haue their affections more moderat. As *Galen* saith, That the Germans and Arabians haue not that commendable ciuilitie which is in them that are borne in Asia the lesse, the which is not onely betwixt the Pole and the Equator, but also betwixt the East Indies and Fraunce Westward: A countrey for this vertue so highly commended by *Tully*, that he doubteth not to affirme, That therein not onely rested the mirror of ciuilitie, but that from thence it hath bin deriued to all forreine nations. But I am not of their opinions, who draw their arguments of ciuilitie and barbarisme from the effects of heate and cold, finding euery day by common experience, that the Southerne people go beyond all other nations in quicknes of wit, whereas barbarisme and rude behauiour proccede from ignorance and want of education, a lesson long ago verified by *Herodotus*, who for good wits and ciuill behauiour commendeth the Egyptians

Proofer to know
the bastards from
them that were
lawfull.

The middle regi-
on participats of
both the ex-
treames.

Courtesie and hu-
manitie comes
from Asia.

- A Ægyptians before all other people of what nation soeuer. And after him *Cæsar* (in his Commentaries of the ciuill warres) gaue them the like priuilege, saying, That the Alexandrians did so artificially counterfeite the Roman engines of warre, as it seemed the Romans were but their apes, he vseth these words, *Ipsi homines ingeniosissimi ac subtilissimi*, The men themselues were verie wittie and politike: And yet Ægypt is partly vnder the Tropique, whereas the heat is more violent than vnder the Equator, by the iudgement of *Possidonius* and the Spaniards. The Romans held the like opinion of the people of Affrike, whom they called *Panos*, who had often deceiued the Romans, and ouerthrowne their forces by policie. So *Columella* tearmes them *Gentem acutissimam*, A most subtile nation: But yet they had not such excellent wits as the Ægyptians,
- B neither are they so neer the South. And without any further search we haue the prooffe therof in this realm, where the difference is apparent in regard of the English, who complained to *Philip of Comines* with admiration, for that the French lost most commonly in their warres against them, and won still in their treaties. Wee may write the like of the Spaniards, who neuer made treatie for these hundred yeares with the French, but they had the aduantage: the which were long to repeate in particular. I will onely produce the treatie of Cambresis, made in the yeare 1559. It cannot bee denied but the forces of Fraunce were great and sufficient to withstand a mightie enemy, yet the Spaniard got more by this treatie, without striking stroke, than they had done before in fortie yeares, neuer hoping (as they confessed afterwards) to draw Sauoy nor
- C Piedmont out of the hands of the French: For although the duke of Sauoye, a vertuous and a generous prince, deserved much, as well for the equitie of his cause, as for the alliance of the house of Fraunce, yet he expected not so happie an issue of his affaires: the which was cunningly handled by the Spaniard, which reaped both thanks, and the greatest fruits of this treatie, having so much diminished the state of Fraunce (which stretched euen vnto the gates of Milan) and set the duke of Sauoy as it were a barre betwixt Italie and Fraunce, to shut vp the passage that the French might pretend no more in Italie. It cannot be denied, that such as had the charge to capitulate for the French, did not shew so great discretion, faith, and loyalty, as they might: but I vnderstand from one of good credit, that it was resolved in the councill of Spaine, That they should prolong the treatie all they could; for that the nature of the French was so sudden and active, as they would easily yeeld to that which was demanded, being tired with many iourneies, and the ordinarie tediousnesse of the Spaniard, the which was not forgotten in this treatie. It was also obserued, That in all the sittings and assemblies made by the deputies, alwaies the French were first come, and although they had set all their people to watch, that they might sometimes enter the last; yet were they still deceiued by the subtiltie of the Spaniards, and impatience of the French, who seemed by this meanes to sue for peace. This fault is not to bee imputed to them that had the charge to treat a peace, but vnto nature, which is hardly vanquished. For we read the like of the ambassadours of Fraunce, conferring with the ambassadours of the emperour, of Venice, Spaine, and Ferrare, before *Francis Sforce* duke of Milan. Our manner (saith *Philip de Comines*) is not to speake treatably, as they doe: for wee speake sometimes two or three together, so as the Duke said, Ho, one to one. Whereby we may iudge as in any other obseruations, That the nature of the Spaniard (being much more mirridionall than we) is colder, more melancholike, more staied, more contemplatiue, and by consequence more ingenious than the French; who by nature cannot stay to contemplate, being cholerike and full of spleene, the which makes him more active and prompt, yea so sudden, as he seemes vnto the Spaniard to run, when hee goes but his ordinarie pace: for which cause both the Spaniard and the Italian desire to haue French men to

The nature of the French.

The Spaniard always circumvents the French by treacheries.

The reason why the Spaniards circumvent the French.

The nature of the Spaniard.

The Spaniard
heavy & slothful

Whence the va-
riety of comple-
xions doth grow

The disposition
of the foure com-
plexions.

The people of the
North not subtill.

serue them, for their diligence and quicknesse in all their actions: so as yerely there go infinit numbers into Spaine; as I haue seene being at Narbone, especially out of Auvergne and Limosin, to build, plant, till their lands, and doe all manuell workes, which the Spaniard cannot doe, but would rather die for hunger, he is so slothfull and heauie in al his actions. When as *N. Stroffie* Prior of Capoua, attempted to surprise Valencia in Spaine, by meanes of the French gallies, whereof he was then Admirall: the practise being discovered, the Viceroy sought to expell all the French out of Valencia, which were found to be ten thousand: for whose loyaltie the Spaniards stood bound, rather than they should depart: which shewes how greatly that countrey is peopled with French. And without doubt those which are bred of the mixture of those two nations, are more accomplished than either of them: For in the Spaniard wee desire more viuacitie and cheerefulnesse, and to haue the actions and passions of the French more moderat: and it seemes the Italian doth participat of the one and the other, Italie being in the most temperat situation that can be, betwixt the Pole and the Equator, and in the midst of Asia, Affrike, and Europe, bending a little towards the East & South. And euen as they which liue at the extremities of the Poles, are Flegmatike, and at the South melancholie; euen so they which are thirtie degrees on this side the Pole; are more sanguin; and they which approach neerer vnto the midst, more sanguin and cholerike; and then drawing towards the South, more sanguin and melancholike: so their complexion is more blacke and yellow, blacke being the colour of melancholy, and yellow of choler. *Galen* confesseth, That flegme makes men heauie and dull; blood cheerefull and strong; choler, active and nimble; and melancholy, constant and graue: and according to the mixture of these foure humors, more or lesse, so many varieties there be, which *Theodore Duca* of the house of *Lascare* emperour of Constantinople hath laboured to comprehend in 92 kinds, not onely for the foure humors, but also for the three parts of the soule, Reason, Anger, & Appetite (or Desire:) but for that his opinions are not grounded vpon the prooffe of any example, nor vpon necessarie reason; and for that he makes no distinction of the parts of the world, neither of moist places, hilly nor windie, from those that are drie, plaine, and temperat: neither for that he hath not denied those people which haue bene brought vp in ciuill discipline, from the rude and barbarous, in this varietie of soules and humors which he hath supposed, wee will follow that discipline which seemeth most agreeing to reason and nature, & hath bene confirmed by many examples. Aunient histories do agree, That the people of the North are not malicious nor craftie, as the nations of the South be. And *Tacitus* speaking of the Germans, saith, It is a nation that is neither subtill nor craftie, discovering their secrets as it were in jest, and then they goe easily from their promises. The like iudgement we find of the Scythians in *Herodotus*, *Iustin*, *Strabo*, *Plinie*, and *Vegetius*, & therefore aunient princes as well as at this day, had no other guards for their persons than Scythians, Thracians, Germans, Swissers, and Circassians. And euen the Seignurie of Rhaguse or of Genes, haue no other guards but Germans and Swissers. And which is more, the kings of Affrike beyond mount Atlas, haue none other guard but souldiours of Europe; who although they be Mahometans, yet had they rather trust in Christians that haue abiured their faith, than in those of the countrey; the which was first put in practise by the great *Manfor* emperour of Affrike and of Spaine: and heretofore the king of Tunis had 1500 light horsemen of Christians renigadoes, and his guard of Turkish and Christian slaues, as *Leo* of Affrike saith; knowing well that the people of the North haue more force than subtiltie, and hauing receiued entertainment of any prince, they alwayes remaine faithfull for the guard of his person, and to reuenge his iniuries (although he be a tyrant) neuer aspiring to his estate. And therefore

Chereas

A *Chereas* captaine of the guard to the emperour *Caligula*, hauing slaine the emperor, was presently murdered by the guard, which were Germans, who could not (as *Iosephus* writeth) forbear reuenge. In like sort the antients haue obserued a barbarous crueltie in the people of the North: for euen *Thucidides* son to *Olorus* king of Thrace, tearmes the Thracians a most cruell nation: and *Taritus* speaking of the Germans, They doe not (saith he) put the guiltie to death after order of law, but by crueltie, as enemies. I will let passe the auntient, and content my selfe with late examples. Wee haue none more notable than that of *George* captaine of the rebels in Hungarie, beeing taken by them of Transiluania, they caused his souldiours and companions to fast three dayes, and then gaue them to eat their captaine halfe roasted, and his bowels boyled. I omit the straunge cruelties of *Dracula* duke of Transiluania, and of *Otton Truces*, who caused the murthrer of his lieutenant to be roasted with a slow fire, during the commons warre: and of late *Grombache* a German, was condemned to haue his heart pulled out being aliue, and to haue his face beaten therewithall, by *Augustus* duke of Saxonie in the castle of Goth. We find also, that the breaking vpon the wheele was inuented in Germany, and the impaling or setting men vpon stakes aliue, in Tartaria. Neither is it lesse cruell in Tartaria, to force them that are condemned, to breake their owne neckes, or els to whip and torment them: Which makes men to thinke, that the cruelties of the king of Moscouie published and printed, are verie likely. For the lesse reason and iudgement men haue, the more they approach to the nature of brute beasts, who can no more yeeld to reason and gouerne their passions than brute beasts. And contrariwise, the people of the South are cruell and reuengefull, by reason of melancholie, which doth inflame the passions of the soule with an exceeding violence, the which is not easily suppressed. *Polybius* speaking of the wartes of the Spudians, and Carthaginians, people of Affrike, he saith, That there was neuer scene nor heard of any warre, where there was more treacherie and crueltie: and yet they are but toyes in respect of the horrible treacheries mentioned by *Leo* of Affrike (and in our age) betwixt *Muleas-fes* and his owne children. And euen the king of Tenefme beeing solicited by *Ioseph* king of Marocco to submit himselfe vnder his obedience, which his grandfather had reiected, he slew his ambassadours; wherewith the king of Marocco beeing incensed, put a million of people to the sword in the realme of Tenefme, leauing him neither towne, castle, house, beast, nor tree. And speaking of *Homar Effuein* a minister to *Mahomet*, seeking to make himselfe king, after that he had forced the fort of Vngiasen, hee was not content to put all to the sword, but he cut & tare the children out of their mothers wombes. And the same author writes, That *Isaak* king of Tombut in Affrike, hauing taken the king of Gagao, he caused him presently to bee put to death, and his children to be guelt to serue him as slaues, doing the like vnto al the kings he takes. We read of the like cruelties or greater at the West Indies, newly discovered: for the Brasilians are not contented to eat the flesh of their enemies, but will bathe their children in their blood. But the crueltie is more remarkable; when as they doe execute any one that is condemned by law; the which should be done without passion, and free from reuenge. Yet we read of punishments that were vsed in old time among the Persians, which exceed all crueltie: and in Ægypt at this day they flea them aliue which rob by the high way, then they skuffe the skin full of haie and set it vpon an Asse, by his side that is so fleaed: Which cruelties the people that liue betwixt both these extreames can neither see nor heare without horrout: and therefore it seemes, that for this cause the Romans suffred them that were condemned, to die of hunger, and the Greeks gaue them hemlocke (which is a sweet-poison) to drinke: and those of Chio did temper it with water, and the Athenians with wine, to take away the bitternesse thereof, as *Theo-*

The people of the North faithfull to the prince that entertaineth them

Strange cruelties of the people of the North.

Melancholike men cruell and reuengefull.

Terrible cruelties of the people of the South.

The people betwixt both extreames, not subiect to crueltie.

Why the people
of the South are
more reuengefull
then others, and
more subiect to
madnes.

Why musicke
cures mad men,
and expels diuels.

The difference
betwixt a furious
and a mad man.

phrastus saith. We may therefore note the difference of crueltie betwixt the people of the North and South: for that the first are transported with a brutish violence, like beasts without reason: and the other (like vnto foxes) imploy all their wits to glut themselves with reuenge: and euen as the bodie cannot bee purged of melancholy but with great difficultie, so the passions and perturbations of the mind, which grow by a settled melancholy, are not easily pacified. So as they which are possessed with this humor, are more subiect vnto frensie than any others, if they find not wherewithall to satisfie their affections. And therefore there are more mad men in the Southerne regions, than towards the North. *Leo* of Affrike doth write, That in the kingdoms of Fez and Marocco there are great numbers: And enen in Grenado (which is more Southerly) there are many hospitals for mad men onely. The varietie of mad men shews the naturall humour of the people: for although there bee store of fooles and mad men in all places and of all sorts, yet those of the Southerne parts haue many terrible visions, they preach and speake many languages without learning them, and are sometimes posselt with euill spirits, hauing leane bodies, more like vnto ghosts then those corpulent and sanguin men towards the North, which do nothing but dance, laugh and leape in their fooleries: and in Germanie it is called the disease of *S. Victus*, the which is cured by musick: whether that the sweet harmonie thereof doth recall the reason which was distempered, or whether that musick doth cure the infirmities of the bodie by the mind, as the phisick doth cure the mind by the bodie, or that euill spirits which do sometimes torment mad men are expelled with this diuine harmonic, delighting in nothing but in discords: or as we reade that the euill spirit hearing the sound of a harp fled, and left *Saul* in rest, which seemes to haue been the cause why *Elizabeth* when he would prophecie before the kings of Iuda and Samaria, he caused one to play of an Instrument. And when as *Saul* was encountred by the holie troupe of the Prophets playing vpon instruments of musick, presently the spirit of God fell vpon him. Oftentimes euill spirits doe applie themselves to the humor of mad men: for cholletike men strike in their furie, which happens not in those that are of a sanguin complexion, and much lesse in them that be flegmatike, which haue a Lethargie, the which is a dull and sleeping furie. And for that the melancholike man is the wiser, if he chance to fall mad, his furie is the more incurable, for that a melancholike humor suffers not it selfe to be gouerned as the rest: those that be sanguin, although they be not so often furious, yet are they often mad, the which is neuer incident to wise men, for *Tully* sayth, *Furor in sapientem cadere potest, insania non potest, & furioso curator datur, non insano, quia insanus dicitur, qui suis cupiditatibus imperare nescit*: Furie may well fall into a wise man, but not madnes: a gouernor is giuen to a furious man, but not to a mad man, for he is called mad that cannot rule his owne desires. As touching that which we haue said, that the people of the South are commonly more graue, more discreet, and more moderate in all their actions: it is plainly seene not only in diuers other nations, but also in this realme, which seemes to be the cause that those which haue made the customes, haue limited them to be of full age that liue towards the North at 25. yeares, and the others at 19 or 20 yeares, except it bee in those countries which border vpon the sea, whereas the people (by reason of their trafficke) are more politike. I cannot without the note of ingratitude to mine owne countrie forget the iudgement which the auncients haue giuen of the citie of Angiers, as it is to be seene in the letters pattenrs of king *Charles* the 5 called the wise, the which he granted for the priuiledges of the Vniuersitie of the said citie in these words, *Quodq; inter regiones alias Regni nostri, ciuitas Andegauensis veluti fons scientiarum irriguus, viros alti consilij solet ab antiquo propagatione quasi naturali prouidere*: For that among other prouinces of this

A this our realme, the citie of Angers like vnto a flowing spring of all sciences, is wont to send forth men of great knowledge and iudgement, as it were by a naturall propagation. These letters are dated the first of August in the yeare 1373.

We haue yet another notable difference betwixt the people of the South and of the North, for that these are more chaste and abstinent, and those of the South much giuen to lust, the which growes by reason of the spongiuous melancholie, so as all Monsters do commonly come from Affrike, which *Ptolomie* saith to be vnder *Scorpio* and *Venus*, adding moreouer, that all Affrike did worship *Venus*: and *Titus Linius* (speaking of the Numidians (who were the most Southerly of all the Romans subiects or allies). The Numidians (sayth he) were giuen to veneric more than all the other Barbarians. Wee read also that the kings of Affrike and Persia had alwaies great troupes of wiues and concubines, the which is not to be imputed to their depraued customes, for that at the West-Indies king *Alcazares* had 400 wiues: and the father of *Attabalipa* the last king of Peru, (who was defeated by *Pizarre*) had 200 wiues, and fiftie children: and the king of Giolo had 600 children: so many had *Hierotimus* king of the Parthians, who had also a great number of wiues: and *Surenus* Generall of that armie of the Parthians which defeated *Crassus*, had ten thousand. The Scythians and Germanes haue enough of one wife: and *Cesar* in his Commentaries sayth, that the Englishmen in his time had but one woman to ten or twelue men: and many men in the North parts knowing their owne insufficiencies, geld themselves in despight, cutting the vaines Parotides vnder the eares, as *Hippocrates* sayth: who seeking out the cause of this disabilitie, concludes, that is for the coldnes of the bellie, and for that they are commonly on horseback: wherein he is deceiued, for *Aristotle* holdeth, that agitation doth prouoke; and as for want of heate, it is most certaine that those which dwell in cold countries abound with heate inwardly, as it appeares by the corpulencie and strength of those Northen nations: and contrarywise those of the South are very cold. It is the nature of melancholie which abounds most in them of the South, the which being frothie, prouokes to lust, as *Aristotle* writes in his Problemes, where he demaunds why melancholike men are most lecherous: the which is notorious in the Hare, the which is the most melancholike of all other creatures, and which only conceiues being big with yong, as well the male as the female, as *M. Varro*, and other writers do witnesse, and experience hath taught vs; so as we may say they are much deceiued which haue so much extolled the pudicitie and chastitie of the Scythians, Germanes, and other Northen nations, as *Cesar* writes in his Commentaries. Among the Germanes (sayth he) it is a dishonest and villanous thing for a man to know a woman before the age of 25 yeares, which thing they conceale not: and *Tacitus* sayth, there are none but the Germanes among the barbarous nations that content themselves with one wife: yea sometimes they liue in perpetuall chastetie, as the Emperour *Henry 2.* did, and *Casimir* 1. king of Poland, and *Ladislaus* king of Bohemia would neuer marrie; the which was not for that they were chaste, but rather through a naturall weakenes: and *Ihon 2.* great Duke of Muscouia, did so abhorre women, as he did euen found at the very sight of them, as the Baron of Herbestein doth write, (speaking of the Muscouites, They neuer see their wiues (saith he) vntill the day of their marriage. The people of the North are so little subiect to ielousie, as *Alconer* a Germane, and *Irenicus* do write in commendation of their countrie, that men and women throughout all Germanie doth bathe together pel mel, yea and with strangers, without any touch of ielousie, the which as *Munster* sayth, is not knowne in Germanie: whereas contrariwise those of the South are so passionate, as oftentimes they dye of that disease. Being sent into England with an Ambassage, I heard *Mendoza* the spanish Ambassadour

The people of the South much giuen to women.

A strange maner of gelding of men, which they vsed in Scythia & low Germanie.

Melancholike men most giuen to lust.

The people of the North enemies to women.

The people of the South much giuen to ielousie.

say, That it was a shamefull thing to see men & women sit together at holie sermons : F
to whome Doctor *Dale* Master of Requests answered pleasantly, That it was a more
shamefull thing for Spaniards to thinke off satisfying of their lusts euen in holie places,
the which was far from Englishmens minds. We reade in the historie of the Indies
that the king of Puna was so iealous, as he did cut off the priuie parts, with the noses
and armes of those Eunukes that attended of his women. The people that inhabit the
middle regions hold a mediocritie in all this, but the most part of them allow but one
lawfull wife : and although that *Inlius Cesar* did persuaide *Heluidius Cinna* to publish
the law of Poligamie (or manie wiues) to the end that *Cesarion* (whom he had by the
Queene *Cleopatra*) might be legitimate, yet this lawe was reiecte: and the same lawe
being reuiued by *Ihon Leiden* a cobbler, hauing made himselfe king of Munster in G
Westphalia, did more trouble their estate than all the other lawes and alterations
which he made. But the Romaine Emperours made a generall lawe to all nations
without any distinction, noring him with infamie that had more than one wife : and
since, that punishment of infamie hath been made capitall within this realme. But the
Romane lawe hath been of no force in Affrike, for the inconueniences that happened;
as it is incident to all those that seeke to applie the lawes of the people of the South to
them of the North, making no difference of their dispositions, wherein many haue
beene much deceiued, and euen *Cardan*, who sayth, That man is wiser than all other
creatures, for that he is more hote and moyst; the which is quite contrarie to the truth,
being most apparant that the wisest beasts are colder than any other, in the opinion of H
Aristotle. In like sort among militarie punishments, one was, to let the souldier bloud
that had offended, for that those which abound in bloud had the passions of the mind
more violent and lesse obedient vnto reason. Of all beasts the Elephant is held to be
the wisest, of the Antients, for that their bloud is coldest ; and the most melancholike
of all others, the which makes them leapers : and to this leprosie the people of the
South are much subiect, the which was called by the Antients *Elephantiasis*, a disease
vnknowne in Greece before *Plutarch*, or in Italie before *Pompey*, as *Plinie* writes. But
he deceiues himselfe to say, that it was proper to the Egyptians, for all the coast of Af-
frike abounds with them ; and in Ethiopia it is so common, as the leapers are not sepa-
rated from the sound. But Leprosie differs from *Elephantiasis*, the which is a great swell- I
ling in the thighes and legs, and leprosie is a canker or infection ouer the whole bodie.
It may be this melancholie is the cause of long life, for all the Ancients consent, that
the Elephant liues three and foure hundred yeares, and *Rauens* more, who haue little
bloud, and that very melancholie. *Francis Aluarez* reporteth, that he had seene *Abuna*
Mare Bishop of Ethiopia who was 150 yeares old, and yet verie lustie, which was the
greatest age that euer was found in the Censors registers at Rome. And we must not
wonder if *Homer* sayth, that *Memnon* king of Ethiopia liued five hundred yeares,
for *Xenophon* long after writes, that in the same countrie there were men that liued
fixe hundred yeares : but those of the South haue verie drie bodies, and are subiect to
the falling sicknes, quartaine agues, and the Kings euill. Hereby we may iudge, that K
the people of the South are infected with great diseases of the bodie, and notorious
vices of the minde : and contrarywise there are no people that haue their bo-
dies better disposed to liue long, and their minds apter for great vertues. So *Ti-*
tus Liuius hauing much commended *Hannibal* for his heroicall vertues, These great
vertues (saied hee) were accompanied with as great vices, inhumane cruelty, trea-
cherie, impietie, and contempt of all religion : for greatest spirits are subiect to grea-
test vertues and vices. Wherein the auntient writers haue bene deceiued, commen-
ding so highly the vertue, integritie, and bountie of the Scythians, and other people of
the

All lawes agree
not with all na-
tions.

Melancholy the
cause of wisdom

Melancholy the
cause of long life.

The people of the
South subiect to
extremes.

- A** the North, and condemning the vices of the South: For he deserues no prayle for his bountie, that hath no wit, and that cannot be wicked, for that hee knoweth no euill; but he that knoweth euill, and how to put it in practise, and yet is an honest man. In like sort *Machiavel* was ouerseene, saying, That the Spaniards, Italians, and Frenchmen, were the wickedest people in the world; shewing thereby, that he had neuer read any good booke, nor knowie the disposition and differences of nations. But if wee shall looke more narrowly into the disposition of the people of the North, of the South, and of them that are betwixt both; we shall find that their natures are like vnto young men, old men, and them of middle age, and to the qualities which are attributed vnto them. In like sort euerie one of those three in the gouernment of the Commonweale
- B** vseth that which he hath most at commaund: The nations of the North, by force; those in the middest, by equitie and iustice; and the Southerne parts, by religion. The magistrat (saith *Tacitus*) commaunds nothing in Germanie, but with the sword in his hand. And *Cæsar* writes in his Commentaries, That the Germans haue no care of religion, and make no account of any thing but of warre and of hunting. And the Schythians (saith *Solinus*) did sticke a sword into the ground, the which they did worship, placing the end of all their actions, lawes, religions, and iudgements, in their force and armes. We find that combats came first from the people of the North, as wee haue said elswhere: all the lawes of the Saliens, Francons, English, Ripuaries, and other Northerne nations are full of them: And the law of *Fronton* king of Denmarke would haue all controuersies decided by single combat: Which lawes could neuer be abrogated, although that both popes and other princes haue laboured much; not considering that the naturall disposition of them of the North, is quite contrarie to them of the South. And at this present in Germany they make great account of the Reisters law, the which is neither diuine, humane, nor canonicall; but the stronger commands the weaker: as *Brennus* captaine of the Gaules said vnto the treasurer *Sulpitius*. The middle nations are more reasonable and lesse strong, they haue recourse vnto reason, vnto iudges, and vnto suits. It is most certaine, that lawes and the manner of pleading are come from the people of the middle nations; as from Asia the lesse (whereas great Orators and Pleadars were in credit) from Greece, Italie, and Fraunce: whereof a certaine Poet speaketh, *Gallia casidicos docuit facunda Britanno*, Eloquent Fraunce hath taught the pleading Brittons: It is not at this day alone, that Fraunce hath bene full of suits and contentions, the which cannot be altered and taken away, vnesse they change the nature and disposition of the people: and it is much better to decide all controuersies by law, than by the sword; the one is fit for reasonable creatures, the other for brute beasts: and to conclude, all great Orators, Law-makers, Lawyers, Historiographers, Poets, Comedians, and others which draw vnto them the hearts of men with goodly discourses and sweet words, are in a manner all of the middle nations. We see in the histories both of the Greeks and Latins, before they attempted the least warre, the matter was debated with many solemne orations, denominations, and protestations: the which the people of the North do not vse, who presently fall to armes, and euen as the one vse force only like vnto Lions, so they of the middest arme themselves with lawes and reasons. In like sort the people of the South haue recourse vnto craft and subtiltie, like vnto Foxes; or vnto religion: for eloquent discourses agree not with the grosse wits of the Northerne people, and they are too base for them of the South, who allow not of any legall reasons or rhetoricall suppositions, which hold truth and falshood in suspence, but they require certaine demonstrations or diuine oracles, which exceed any humane discourse. So we see that the people of the South, the Egyptians, Caldeans, and Arabians, haue brought to light the hidden sciences both

Possibile & nolle nobile.

The manner of gouernment in the three temperatures.

The Frenchmen given by nature to pleading.

The severall disposition of people according to the climats.

naturall and mathematicall, which torment the greatest wits, and force them to confesse the truth : and all religions haue in a manner taken their beginning from the people of the South, and from thence haue been disperſed ouer the whole earth : not that God hath any acception of places and persons, or that he doth not suffer his diuine light to shine vpon all men ; but euen as the Sunne is seene more easily in a cleere and still water than in that which is troubled and filthie, so in my opinion the heauenly light doth shine far more brighter in pure and cleane spirits, than in those which are poluted with base and earthly affections. And if it be so that the true purifying of the soule is by his heauenly light, and by the force of contemplation in the most perfect subiect ; without doubt they shall soonest attaine vnto it which haue their soules raiſhed vp into heauen ; the which we see happen vnto melancholike men, which haue their spirits settled and giuen to contemplation, the which is called by the Hebrewes and Accademiks a pretious death, for that it drawes the soule out of this earthlie bodie vnto spirituall things. It is no meruaile then if the people of the South be better gouerned by religion, than by force or reason, the which is a point verie considerable to draw the people, when as neither force nor reason can preuaile : as we reade in the historic of the Indies, that *Christopher Columbus* when he could not draw the people of the West Indies vnto humanitie by any flatterie or faire meanes, he shewed them the Moone the which they did worship, giuing them to vnderstand that she should soone lose her light : three dayes after seeing the Moone eclipsed, they were so amazed, as they did what he commanded them. So the more we draw towards the South, the more deuout we finde men, and the more firme and constant in their religion, as in Spaine, and more in Affrike : whereas *Francis Aluarez*, and *Leo* of Affrike do say, that religion is much more reuerenced and honoured there than in Europe, where among other obseruations *Leo* notes, That in one citie of Fez there are seauen hundred temples, and the greatest is 1500 paces in compasse, 31 gates, and within it 900 lamps, the yearly teuenue of which temple is 73000 ducates. But *Aluarez* reports far stranger things of the greatnes of temples, of the incredible fasts and deuotion of the people of Ethiopia, and that the greatest part of the nobilitie and the people make verie strict vowes of religion. The greatest reason that hath so long maintained Ethiopia in that goodlie and flourishing estate, and that doth still hold the subiects in the obedience of their prince and gouernour, is the assured perswasion which they haue (as *Aluarez* saith) That good and euill comes not vnto them by their friends or enemies, but by the will of God. As for suites, there are fewer than in any part of the world : and which is more strange, they keepe no records in writing of any decrees, iudgements, testaments, or contracts, except the accounts of the receit and expences. Who so should seeke to gouerne those nations by the lawes and ordinances vsed in Turkie, Grece, Italie, France, and other midle regions, he should ruine their estate. In like sort he that should accustome the people of the North to the pleading of France and Italie, should finde himselfe much troubled, as it hapned to *Mathias* king of Hongarie, who sent for Iudges out of Italie to reforme the iurisdiction of Hongarie, but in a short time the people were so troubled with this canonically pleading, as the king was constrained (at the request of his Estates) to send back his Italian Iudges into their countrie. So *Ferdinand* king of Spaine sending *Pedrarrias* Viceroy to the West Indies, the which then were newly discovered, he did expressly forbid him to carrie any lawyer or aduocate with him, to the end he should not sow any seeds of suites and pleading where as there was not yet any. But who so should seeke to roote out all suites and processes in France and Italie, he should thrust the people into perpetuall seditions : for euen the Iudges themselves being vnable to determine and end suites, for the difficultie and contrarietie of reasons

Melancholike
men most giuen
to contemplation

Means to gouerne
the people of the
South.

A fine policie of
Columbus the
Genewois.

Religion most re-
spected in the
South.

The disposition
of the people is
greatly to be ob-
serued in the
gouernment.

A reasons that are of either side, they oftentimes depute arbitrators, or else they prolong the sute of purpose to giue the parties occasion to agree friendly, and to discharge their choller vpon the Iudges and aduocates, else they would fall to armes, whereby it appears that the people of the middle region are more capable to gouerne a commonweale, as hauing more naturall reason, the which is proper to humane actions, and as it were the touchstone to destinguish the difference betwixt good and euill, betwixt right and wrong, and betwixt honest and dishonest things. Wisedome is fit to commaund, and force to execute, the which is proper to the people of the North, but they of the South being lesse capable of gouernment, giue themselues wholly to the contemplation of naturall and diuine sciences, and to discerne truth from falshood.

Three vertues
proper to three
nations, of the
North, South,
& middle regions.

B And euen as the wisdome to know good and euill is greatest in the people of the midst, and the knowledge of truth and falshood in the people of the South, euen so those arts which consist in handie works, are greater in the people of the North then in any other, and therefore the Spaniards and the Italians admire so many and so diuers kinds of works made with the hand, as are brought out of Germanie, Flanders, and England. And as there are three principall parts in the soule of man, that is to say, the imaginative or common sence, reason, and the intellectuall part, euen so in euery well ordered Commonweale the Priests and Philosophers are employed in the search of diuine and hidden sciences, being as it were the hart of the citie, the magistrates and officers to commaund, iudge, and provide for the gouernment of the State, being as it were the reason of the citie: and the common people applie themselues to labour and mechanicall arts, the which is conformable to common sence.

Prudentia.
Scientia.
Ars.

We may conclude the like of the vniuersall Commonweale of this world, the which God hath so ordained by his admirable wisdome: As the people of the South are made and appointed for the search of hidden sciences, that they may instruct other nations: Those of the North for labour and manuell artes: and those of the middle betwixt the two extreames, to negotiat, traffique, iudge, plead, command, establish Commonweales; and to make lawes and ordinances for other nations: whereunto those of the North are not so apt for want of wisdome: neither are the people of the South, be it that they be too much giuen to diuine and naturall contemplations; or for want

The disposition
of the three nations
in the gouernment of the
world.

D of that alacritie and promptnesse, which is required in humane actions; be it that hee cannot yeeld in his opinions, dissemble, nor endure the toyle which is necessarie for a man of state; or that he is soone wearie of publike affaires, or that hee is oftentimes expelled by ambitious courtiers: as it happened to the wise men of Persia, who were suddenly put from the gouernment of the state, after the death of *Cambises*: and to the Pythagorians in Italie. And it seemes this was figured by the fable of *Iupiter*, who expelled his father *Saturne* out of his kingdome: that is to say, an ambitious and politike courtier dispossessed a Philosopher giuen to contemplation: For who so shall wel obserue the nature of Planets, he shall find in my opinion, that the diuision of them doth agree with the three regions aboue mentioned, according vnto their naturall order, giuing the highest Planet, which is *Saturne*, to the Southerne region, *Iupiter* to the middle, and *Mars* to the Septentrionall parts, the Sunne remaining in the midst, as the spring of light equally common to them all. Then followes *Venus*, proper to the people of the South, then *Mercurie* to them of the middle regions: and last of all is the Moone for the North parts, which sheweth the naturall inclination of the people of the North to warre and hunting, fit for *Mars* and *Diana*: and the people of the South to contemplation, besides their disposition to venerie. And the nations betwixt both the qualitie of *Iupiter* and *Mercurie*, fit for politike gouernments: the which hath a strange sympathie in mans bodie, which is the image of the vniuersall world, and of a well

Why those of
the South are not
fit to gouerne a
state.

The proportion
of the Planets to
the people.

In Method. hist.
cap. 5.

More women in
the South than
men.

The people of
the East more
courteous, and
more ingenious
than those of the
West.

Remarkable par-
ticularities of
places.

well ordered Commonweale : for setting the right hand of man towards the North, F
going from the East into the West, according vnto the naturall motion of the world,
and the true constitution thereof; as I haue shewed in another place : the right part
which is the more strong and masculine, hauing the lyuer and the gall, which the He-
brewes attribute to the Moone and *Mars*, sheweth plainly the nature of the people
of the North to be sanguin and warlike. The left side, which is the feminine part (so cal-
led by the Philosophers) and the weaker, hauing the spleene and the melanchelike hu-
mor, discovers the qualitie of the people of the South. Euen so we find more women
in the Southerne parts, and more men in the North : for else it were impossible that
euerie man in the South countries should haue so many wiues.

And thus much as touching the generall qualities of all people : for as for the parti- G
cular, there are in all places and in all countries men of all humors, and subiect to that
which I haue said more or lesse. Moreouer the particular situation of places, doth
much alter the nature of the countrey. For although there is not any certaine place,
whereas we may distinguish the East from the West, as we may the South from the
North : yet all auncients haue held, That the people of the East are more mild, more
courteous, more tractable, and more ingenious, than those of the West, and lesse war-
like, Behold (saith *Julian* the emperour) how the Persians and Syrians are mild and
tractable. Who sees not the furie of the Celtes & Germans, & how iealous they are of
libertie : the Romans are courteous and warlike, the Egyptians wittie and subtile, and
withall effeminate. The Spaniards haue obserued, That the people of Sina (the which H
are farthest Eastward) are the most ingenious and courteous people in the world : and
those of Brezill, which are farre Westward, the most cruell and barbarous. To con-
clude, if we looke well into histories, we shall find, that the people of the West do par-
ticipat much of the nature of the North ; and the people of the East with them of the
South in the same latitude. The naturall bountie of the ayre, and of the Easterly winds,
is the cause that men are more faire, and of a bigger proportion : and it is straunge, if the
plague or any other infectious disease comes from the West into the East, or from
the North into the South, it continues not : whereas if they begin in the East, or in
any part of the South, they are long and verie infectious : as it hath bene proued by ex-
perience in old times, and at this day the coniecture is infallible in the countrey of Lan- I
guedoc, whereas the plague is ordinarie. I haue noted many examples in another place,
the which I omit now for breuitie sake : yet the difference of manners and dispositions
of people, is much more notorious betwixt the North and the South, than betwixt
the East and the West. But the greatest chaunge in particular, is the difference of hil-
ly places from vallies : and of vallies turned towards the North or towards the South,
in the same climat or like latitude, yea in the same degree ; which causeth a wonderfull
difference betwixt the one and the other : as it is plainly seene in mountaines which
stretch from the West to the East : as the Appenin, which diuideth in a manner all Ita-
lie in two, mount Saint Adrian in Spaine, the mountaines of Auvergne in Fraunce,
and the Pyrennees betwixt Fraunce and Spaine, mount Taurus in Asia, and Atlas in Af-
rike, which runs from the Atlantike sea vnto the confines of Egypt about six hundred
leagues ; mount Imaus, which diuides Tartarie from South Asia, the Alpes which be-
gin in France, and continue vnto Thrace : and mount Calphat, which diuides Polo-
nia from Hungarie ; the which causeth them of Tuscanie to be of a contrarie humor to
them of Lombardie, and farre more ingenious : as also wee see them of Arragon and
Valence, and other people beyond the Pyrenean hilles, to bee of a different disposition
to them of Gasconie and Languedoc, who hold much of the nature of the North ; and
the people on this side mount Atlas are farre lesse ingenious than the Numidians, and
other K

A other nations which are on the other side mount Atlas : for the one are very white, and the other exceeding blacke ; the one subiect to many infirmities , the other sound, cheerefull, and of long life . We must not then maruell if the Florentine (who is towards the East and South, hauing the mountaines at his backe vpon the North & West) be of more subtil spirit than the Venetians , and more aduised in his priuat affaires : and yet the Florentines in their assemblies spoile all through the subtiltie of their wits : whereas the Venetians in their counsels resolute grauely , as wee haue obserued for these two hundred yeres : for those that haue least wit, yeeld to reason, change their opinions , and referre themselves to men of best iudgement : but so many great spirits being subtil and ambitious, are obstinat, and will hardly yeeld from their opinions : & for that euerie man holds himselfe able to commaund, they will haue a Popular estate, the which they cannot maintaine without quarrels and ciuill dissensions, by reason of a naturall obstinacie, proper to the people of the South, which are melancholike , and to those which for the particular situation of the place , doe participat of the nature of the South . And euen as they which goe from Bouloigne to Florence, or from Carcassonne to Valence, find a great alteration from cold to heat, in the same degree of latitude, by reason of the diuersitie of the one vallie turning to the South, and the other to the North : in like sort shall they find a diuersitie of spirits . And therefore *Plato* gaue God thanks, That he was a Grecian, and not a Barbarian ; an Athenian, & not a Theban ; although there be not twentie leagues betwixt Thebes and Athens : but the situation of Athens was towards the South, inclining towards Pyrene, hauing a little mountaine behind it , and the riuer *Asopus* betwixt the two cities : so the one was giuen to learning and knowledge, and the other to armes . And although they had one kind of Popular gouernment, yet was there no sedition in Thebes, whereas the Athenians had many quarrels and dissensions for the state . In like sort the Cantons of the Swissers haue maintained their Popular estate verie wisely these foure hundred yeres : the which the Florentines and the Geneuois could neuer (with the excellencie of their wits) doe ten yeares together , without some mutinies . For the people of the North , and those that liue vpon mountaines, being fierce and warlike, trusting in their force and strength, desire Popular estates, or at the least electiue Monarchies : neither can they easily endure to be commaunded imperiously . So all their kings are electiue, whome they expell if they insult or tyrannize : as I haue obserued of the kings of Sweden, Denmarke, Norway, Poland, Bohemia, and Tartarie, which are electiue .

The cause or the diuersitie of humors in Italie.

A mountaine causeth a great difference of people that liue in opposit vallies.

Why the people of the North haue electiue kingdomes.

E That which I haue spoken of the nature of the Northerne countries , agrees with the mountaines, the which are oftentimes more cold than the regions that are farre Northward : for in many places they haue snow and yce perpetually : and euen vnder the Equator the mountaines of Peru are so high and cold, as many Spaniards died for cold, and lay long dead before they corrupted ; as we read in the histories of the West Indies. *Leo* of Affrike hath no cause to wonder, why the inhabitants of the high mountaine of Megeza in Affrike are white, tall , and strong ; and those of the vallie are little, weake, and blacke : for generally both the men, beastes, and the trees of the mountaine, are of a stronger constitution than the others . And old men vpon mount Atlas of 100 yeres old, are vigorous, as *Leo* doth testifie . This force and vigour doth cause the mountaineers to loue popular libertie, who cannot endure to be braued ; as wee haue said of the Swissers and Grisons . And in like sort the inhabitants of the mountaines of Bugia, Fez, Marocco, and Arabia, liue in all libertie, without any commaunder : not through the assurance of any places that are fortified by nature , but for that they are sauage and cannot be reclaimed . The which should serue for an answer vnto *Plutarchs* demand, Why the inhabitants of the high towne of Athens required a Popular estate, & those

Why those that liue vpon mountaines loue Popular states.

of the low towne the gouernment of few : considering the reason that I haue giuen. **F**
 He should therefore wrong himselſe verie much, that should ſeeke to chaunge the Popular eſtate of the Swiſſers, Griſons, and other mountainers, into a Monarchie : For although a Monarchie be ſarre better of it ſelſe, yet is it not ſo fit for that ſubieſt.

We muſt therefore carefully obſerue what euerie nation deſires, and what they abhorre ; and firſt you muſt draw them to a milder kind of life, before you propound a royaltie vnto them, the which is effected by quietneſſe and eaſe, inuring them to the ſtudies of ſciences and muſicke. And for this cauſe *Polybius* ſaith, That the auntient lawgiuers of Arcadia, had ſtriſtly bound the inhabitants of the mountaines of Arcadia, to learne muſicke, vpon great penalties : thereby to temper the naturall ſauagneſſe of that people. *Titus Linius* alſo ſpeaking of the *Ætolians* dwelling on mountaines, the moſt warlike and rebellious people of all Greece, he ſayth, *Ferocioreſ Aetoli quam pro ingenijs Grecorum*, The *Ætolians* were more fierce than was agreeable to the humor of the Greekes : They troubled the Romans more (although they had but three townes) than all the reſt of the Greekes. In like ſort, the inhabitants of the mountaine of Genes defeated the Roman armies, and continued warre againſt them one hundred yeares, neither could they cuer bring them in ſubiection vntill they had transported them from the mountaines into the vallies, after which time they became good & quiet ſubieſts ; as we read in *Titus Linius*. We muſt not then maruell, if by the Swiſſers lawes euerie man is bound to weare a ſword, and to haue his houſe furniſhed with offenſiue and deſenſiue armes : which other people forbad for the moſt part. And contrariwiſe the inhabitants of vallies are commonly effeminate and delicat : and euen the naturall fertilitie of the vallies, giue the inhabitants thereof occaſion to glut themſelues with pleaſure. **G**

In Swiſſerland e-
 uery one is bound
 to weare a ſword.

Inhabitants of
 vallies are effe-
 minate.

As for the inhabitants vpon the Sea coaſt, and of great townes of traffique, all writers haue obſerued, That they are more ſubtill, politike, and cunning, than thoſe that lie ſarre from the ſea and traffique. Therefore *Cæſar* ſpeaking of the inhabitants of *Tour-nay*, Theſe men (ſaith he) for that they are ſarre from the ports of the ſea, are not ſoft & effeminate with the marchandife and delights of ſtraungers. And to that end *Tully* ſaid, That the inhabitants of the riuer of Genes, were called deceiuers and coſeners ; & thoſe of the mountaines, rude and vnciuill : for that theſe were not accuſtomed to traffique, to ſell and to deceiue. Wherefore *Ioſeph* ſpeaking of the inhabitants of *Ieruſalem* & *Sparta*, ſaith, That they were remote from the ſea, & leſſe corrupted than others. For which cauſe *Plato* forbids them to build his Commonweale neere vnto the ſea, ſaying, That ſuch men are deceitfull and treacherous. And it ſeemeth that the prouerbe which ſaith, That Ilanders are commonly deceitfull ; ſhould be applied to this that we haue ſpoken, for that they are more giuen to traffique, and by conſequence to know the diuerſitie of men and their humors, wherein the policie of trading doth conſiſt, to diſſemble his words and countenance, to deceiue, lie, and to couſen the ſimple for gaine, the which is the end of many marchants. And to this end the Hebrewes applie that text of Scripture, where it is ſaid, *Non eris mercator in populo tuo*, There ſhall be no marchant among the people : which ſome do interpret a deceiuer or couſener ; but the Hebrew word ſignifies Marchant. **H**

Merchants giuen
 to lie & deceiue.

The violence of
 the wind breeds
 a great varietie
 in men.

There is alſo a great varietie for the difference of places ſubieſt to violent winds, which makes people to differ much in manners, although they be in the ſame latitude and climar : For we ſee plainly, that thoſe people are more graue and ſtaied, when the ayre is calme and temperat, than thoſe which liue in regions beaten with violent winds : as Fraunce, and eſpecially *Languedoc*, high Germanie, *Hungarie*, *Thrace*, *Circasſia*, the countrey of Genes, *Portugall*, and *Persia*, whereas men haue more turbulent ſpirits, than **I**
K

A than those of Italie, Natolia, Asiria, and Ægypt, whereas the calmnesse of the ayre make men farre more mild. We doe also see in moorish places another difference of men, contrarie in humour to them of the mountaines. The barrenesse and fruitfulness of places doth in some sort chaunge the naturall inclination of the heavens: And therefore *Titus Linius* said, That men of a fat and fertill soile, are most commonly effeminat and cowards; whereas contrariwise a barren countrey makes men temperat by necessitie, and by consequence careful, vigilant, and industrious: as the Athenians were, whereas idlenesse was punished capitally: Neither by *Solons* law were the children bound to relieue the parents, if they had not taught them some meanes whereby to get their liuing. So as the barrenesse of the soyle doth not onely make men more temperat, apt to labour, and of a more subtile spirit; but also it makes townes more populous: for an enemie affects not a barren countrey, and the inhabitants liuing in safetie doe multiplie, and are forced to traffique or to labour. Such a one was the citie of Athens, the most populous of all Greece: and Nuremberg, which is seated in the most barren soyle that can be, yet is it one of the greatest cities of the empire, and full of the best artificers in the world: and so are the cities of Limoges, Genes, and Gand. But those that dwell in vallies become soft and slothfull through the richnesse of the soyle. And as they that lie vpon the sea for their traffique, and those of barren countries for their sobrietie, are industrious: in like sort those which make the frontiers of two estates being enemies, are more fierce and warlike than the rest, for that they are continually in warre, which makes men barbarous, mutinous, and cruell; as peace makes men quiet, courteous, and tractable. And for this cause the English heretofore were held so mutinous and vnruely, as euen their princes could not keepe them in awe: yet since that they haue treated of peace and alliance with France & Scotland, & that they haue bene gouerned by a mild and peacefull princeesse, they are growne verie ciuill and full of courtesie. Whereas contrariwise the French, which did not yeeld to any nation in courtesie and humanitie, are much chaunged in their dispositiōs, and are become fierce & barbarous since the ciuill warres: as it chaunced (as *Plutarch* saith) to the inhabitants of Sicilie, who by reason of their continuall wars, were growne like vnto brute beasts.

A fertill countrey breeds effeminat people.

A barren soyle makes the people wittie.

People giuen to warre fierce and sauage.

D But he that would see what force education, lawes, and customes, haue to chaunge nature, let him looke into the people of Germanie, who in the time of *Tacitus* the Proconsull, had neither lawes, religion, knowledge, nor any forme of a Commonweale; whereas now they seeme to exceed other nations in goodly cities, and well peopled, in armes, varietie of artes, and ciuill discipline: And the inhabitants of Bugia (which in old time was Carthage, the which in former times had contended with the Romans for the empire of the world, being the most warlike people of all Affrike) by the continuance of peace, and the practise of musike (wherewith they are much delighted) they are become so effeminat and timorous, that *Peter* of Nauarre comming thither with foureene ships onely, the king with all the inhabitants fled, and without striking stroke abandoned the citie, whereas the Spaniards built goodly forts without any opposition. Therefore *Plato* maintained, That there were two arts necessarie in al cities, Wrestling, and Musicke; the one being the nurse of the mind, the other of the bodie. If they neglect wrestling, the force of the bodie must languish: if the studie of Musicke, they will become rude and barbarous: if both, then must both bodie and mind grow dull with idlenesse and sloth: For commonly we see those whose minds are delighted with the sweet sound of Musicke, to be verie mild and courteous. What should I speake of the Romans, & of that famous citie, which had so often triumphed ouer Europe, Asia, and Affrike, whilst that it flourished in armes and learning; which hath now lost the beautie and vertues of their fathers, through sloth, to the eternall infamie of their idle

Education alters nature.

Wrestling and Musike necessary in all Commonweales.

prelats. Whereby it appeares how much education preuailes: whereof *Licurgus* F
made triall, hauing bred vp two grayhounds of one litter, the one in hunting, the other
to the portage pot, and then made triall of them before all the people of Lacedemon,
bringing forth a quick hare, and pots of meat; so as the one followed the hare, and the
other ran to the meat. It is most certaine that if lawes and customes be not well main-
tained and kept, the people will soone returne to their naturall dispositions: and if they
be transplanted into another countrey, they shall not be chaunged so soone, as plants
which draw their nourishment from the earth: yet in the end they shall be altered,
as we may see of the Gothes, which did inuade Spaine, and high Languedoc; and the
auntient Gaules which did people Germanie, about the blacke Forrest and Francford,
with their Collonies. *Cesar* saith, That in his time (which was some fiew hundred yeres G
after their passage) they had chaunged their manners and naturall disposition with that
of Germany.

But it is needfull to purge an errour into the which many haue fallen, hauing taxed
the French of lightnesse, imitating therein *Cesar*, *Tacitus*, *Trebellius*, and *Pollio*. If they
tearme a certaine alacritie and promptnesse in all their actions, Lightnesse; the iniurie
pleaseth me, the which is common to all the people of the middle regions betwixt the
Pole and the Equator: for euen in like sort *Titus Linius* doth call them of Asia, Greece,
and Syria, *Leuissima hominum genera*, Light kind of men: the which the ambassadaur
of the Rhodians did freely confesse in the open Senat at Rome. And *Cesar* himselte
doth interpret that which he would say, acknowledging that the Gaules haue good H
wits, and prompt, and tractable. And *Scaliger* borne at Verona, writes, That there is
not any nation of a quicker & more liuely spirit than the French; be it in armes or lear-
ning, be it in the trade of marchandise, or in well speaking: but aboue all, their hearts
are generous and loyall, keeping their faith more constantly than any nation. And
Baptista Mantuanus, the most excellent Poet of his age, writes thus of the French,

*Hot fierie spirits haue the Gaules, their bodies passing white,
And of that white haue they their names; a crimson colour bright
Their womans faces garnisheth, wherewith a comely grace
Being mixt, Nature out of two sundrie colours one doth raise:
Frolike they are, of cheerefull hew, delight in rounds and rime,
Prone vnto Venus sports, to banqueting, and when they see their time
As prone vnto Church seruice. They list not beare the yoke,
Hypocrisie they flie amaine, and what is falsly spoke:
Hating the sullen Saturnist, they giue themselves to game,
To hunting, hawking, hils and dales theile thorow them amaine.
I, they in warres delight them too, the barbed horse to ride,
Their brigantines, their bow, and speare, to vse it is their pride:
Whole nights abroad to sleepe on ground it is their chiefeest toy,
And to be slurd with sunne, and rust, th account it nothing coy,
With dust to be orespred, to sweat vnder the weight of armes,
For countrey, kin, and eke for king, to undergoe all harmes;
Yea death it selfe to them is sweet.*

Thus farre *Mantuan*.

The French held
to be constant.

The constancie of the French appeares plainly by the religion which hath bene re-
ceiued and allowed by our predecessors, for the which we haue contended these three-
score yeres with such obstinacie, as no nation in the world hath endured such burnings,
spoylings, tortures, and ciuill wars, as we haue caused vnto our selues. Wherby *Cesar*s
testi-

- A testimony appeares to be very true, writing, That all the nations of the Gauls was much given to religion, which is far from lightnesse and inconstancie. But that fierie vigour, as *Veronensis* sayth, which we see in the french, and the wonderfull alacritie in doing of things proceedes from choller: from thence grow the violent motions of the mind, from thence come murthers, when as from words they fall to blowes, and choller enclining vnto rashnes breakes forth sodenly, the which if it be restrained within the bound of reason it doth greatly increase wisdom the gouernesse of mans life, as *Galen* sayth, writing of a chollerike humor, but if it be distempered, it turnes into rashnes, which properly we call lightnes, but this inconstancie is much more proper and incident to the people of the North. We haue said (speaking in generall) that the people
- B of the South are of a contrarie humour and disposition to them of the North: these are great and strong, they are little and weake: they of the north hot and moyst, the others cold and dry; the one hath a big voyce and greene eyes, the other hath a weake voyce and black eyes; the one hath a flaxen haire and a faire skin, the other hath both haire and skin black; the one feareth cold, and the other heate; the one is ioyfull and pleasant, the other sad; the one is searefull and peaceable, the other is hardie and mutinous; the one is sociable, the other solitarie; the one is giuen to drinke, the other sober; the one rude and grosse witted, the other aduised and ceremonious; the one is prodigall and greedie, the other is couetous and holds fast; the one is a souldier, the other a philosopher; the one fit for armes and labour, the other for knowledge and rest.
- C If then the inhabitants of the South be wilfull and obstinate, as *Plutarch* sayth, speaking of the Affricans, maintaining his resolutions very wilfully; it is most certaine that the other is changeable, and hauing no cōstancie, those of the middle regions hold the vertue of the meane, betwixt wilfulnes and lightnes, not being changeable in their resolutions without reason, like vnto the people of the North, nor yet so settled in their opinions, as they will not be altered without the ruine of an estate. *Tacitus* writing of the Germaines, saith, that they hold it no dishonor to denie their word. The Eastgoths and Weastgoths being expelled by *Attila*, they required some land to inhabit from the Emperour *Valens*, swearing to imbrace the Christian religion, which hauing granted them, they treacherously seized on *Valens*, and burnt him aliue, and the people of
- D Gronland which are neereft vnto the Pole, being of an inconstant humor, as *Munster* saith, did easily imbrace the Christian religion, and then afterwards fell againe to their Idolatrie. And as for the Muscouites, the Baron of Heberstein saith in their historie, that he hath not knowne any nation more disloyall, which will haue all men to keepe their faith with them, and they with no man. This falshood or treacherie comes from distrust, or from feare, and both the one and the other from want of spirit and wit: for a wise and considerate man as those of the middle region be, is not distrustfull, for that he foreseeeth what may happen, and with courage and constancie doth execute what he hath resolved, the which the people of the South do not so well, being fearefull, nor they of the North which want wit. And to make it manifest how distrustfull and suspicious the people of the North be, looke into the realme of Denmarke and Sweden, whereas the magistrates do hide men in the Innes to heare what is spoken. The gouernment of euery Citie is of great force in the alteration of the peoples natures and dispositions: if they be oppressed with tyrannie and seruitude, they grow fainthearted and deiected: they which liue in popular estates and enioy their liberties, must of necessitie be more bold and warlike, wherein not only the nature of the heauens and regions in generall are to be considered, but also the particularities of the regions. What may grow in the minds of men from the ayre, water, winds, hills and vallies, what from religion, lawes, customes, discipline, and from the state of euery commonweale, and

Inconstancie incident to them of the North.

The difference of humors betwixt them of the North and South.

The people of the North careless of their faith.

The gouernment of a state alters the peoples dispositions.

Great differences
of people in co-
lour in the same
climates.

not to obserue the climate alone, for we see in climates that be alike and of the same ele-
uation foure notable differences of people in colour, without speaking of other quali-
ties, for that the West Indians are generallie of a dusky colour like vnto a roasted
quinze, vnlesse it be a handfull of men that are black, whom the tempest carried from
the coast of Affrike: and in Sinill of Spaine the men are white, at Cape Bonne Espe-
rance black, at the river of Plate of a chestnut colour, all being in like latitude, and like
climates, as we read in the histories of the Indies which the Spaniards haue left in wri-
ting: the cause may be the change from one countrie to another, and that the Sunne
in Capricorne is neerer vnto the earth by all the eccentricall latitude, the which are a-
boue foure hundred thousand leagues. The transportation of Collonies works a great
difference in men, but the nature of the heauens, winds, waters and earth, are of more
force. The Colonie of the Saxons which *Charlemaine* brought into Flanders, differed
much from all the French, but by little and little they were so changed as they retaine
nothing of the Saxon but the language, the which is much altered, pronouncing their
aspirations more lightly, and interlacing the vowels with the consonants: as the Sa-
xon when he calles a horse *Pferd*, the Flemings say *Perd*, and so of many others. For
alwaies the people of the North, or that dwell vpon mountaines, hauing a more in-
ward heate, deliuer their words with greater vehemencie and more aspiration than the
people of the East or South, who interlace their vowels sweetly, and auoid aspirations
all they can (and for the same reason women who are of a colder complexion than
men, speake more sweetly) the which was verified in one tribe of the people of Israell,
for those of the tribe of *Ephraim* which remained in the mountaine and towards the
North, which they called *Gallaad*, were not only more rough and audacious and bold
than those that dwelt in the valies, of the same tribe, but did also pronounce the conso-
nants and aspirations which the others could not pronounce; so as being vanquished,
and flying from the battaile, not able to distinguish the one from the other being of
one nation, they watched them at the passage of Iordain, demaunding of them how
they called the passage or foord, which was named *Schiboleth*, the which they pronoun-
ced *Siboleth*, which doth properly signifie an eare of corne, although that they be both
oftentimes confounded, by which meanes there were 42000 men slaine. It is most
certaine that at that time the Hebrewes held the purenes of blood inuolable, and that
it was but one tribe. That which I haue said, That the nature of the place doth greatly
change the nature and pronounciation of men; may be generally obserued, and especi-
ally in Gasconie in the countrie which is called *Labdac*, for that the people put *L*. in
stead of other consonants. We do also see the Polonians, which are more Eastward
than Germanie, to pronounce much more sweetly: and the Geneuois being more
Southerly than the Venetian these men pronounce *Cabre*, and the Geneuois say *Cra-*
be, whereby the Venetians distinguished them that fled, hauing gotten a great victorie
against the Geneuois, making them to pronounce *Cabre*, and killing all them that
could not do it. The like did the inhabitants of Montpellier in a sedition which hap-
ped in the time of king *Charles* the fifth, seeking to kill the strangers, they shewed them
beanes, which the strangers called *Febues*, and the inhabitants of the countrie called
them *Haues*; like vnto the Sabins, which did pronounce *Fircus Fædus*, for *Hircus Hæ-*
dus, as *Marcus Varro* sayth. And thus much touching the naturall inclination of peo-
ple, the which notwithstanding carrie no necessitie as I haue sayd, but are of great
consequence for the setting of a Commonweale, lawes and customes, and to know in
what manner to treat with the one and the other. Let vs now speake of other meanes
to preuent the changes of Commonweales, which groweth through abundance of
riches.

The nature of
the place doth
commonly
change the lan-
guage.

A

CHAP. II.

The meanes to prevent the changes of Commonweales, which happen through the great riches of some, and exceeding pouertie of others.

B



Mong all the causes of seditions and changes of Commonweales there is none greater than the excessive wealth of some fewe subiects, and the extreme pouertie of the greatest part. All antient histories are full, whereas it appeares that all they which haue pretended any discontentment against the state, haue alwayes imbraced the first occasion to spoile the rich: yet these changes and mutenies were more ordinarie in old time than at

The chiefest cause of the change and subuersion of a state

C

this day, for the infinite number of slaues which were thirtie or fortie for one free man; and the greatest reward of their seruice, was to see themselves freed, although they reaped no other benefit but only libertie, which many bought with that which they had spared all their life time, or else with what they borrowed, binding themselves to restore it, besides the duties they did owe to them that did infranchise them: besides, they had many children, which happens most commonly to them that labour most, and liue most continently, so as seeing themselves in libertie and oppressed with pouertie, they were forced to borrow vpon interest, to sell their children, or to satisfie their creditors with their fruites and labours; and the longer they liued, the more they were indebted, and the lesse able to pay: for the Hebrewes called vsurie a biting, which doth not only wast the debtor vnto the bones, but doth also suck both bloud and marrow, so as in the end the number of the poore being increased, and not able to indure this want, they did rise against the rich, and expelled them from their houses and townes, or else they liued on them at discretion. And therefore *Plato* called riches and pouertie the two antient plagues of a Commonweale, not only for the necessitie that doth oppresse the hongrie, but also for the shame, the which is more insupportable to many

The cause of mutinies in an estate.

D

than pouertie it selfe: for the preventing whereof, some haue sought an equalitie, the which many haue commended, teaching it the nurse of peace, and loue betwixt subiects; and contrariwise inequalitye the spring of all diuisions, factions, hatred and partialities: for he that hath more than an other, and sees himselfe to haue greater wealth, he will also be higher in honor, in delights, in pleasures, in diet and in apparell, hauing no great regard of vertue: the poore on their part conceiue an extreme hatred and iea- lousie, seeing themselves thus troden vnder foote, they thinke themselves more wor- thie than the rich, and yet are oppressed with pouertie, hunger, miserie and reproch. And therefore many antient law-giuers did equally diuide the goods and lands among the subiects, as in our time *Thomas Moore* Chancellor of England in his Commonweale

The two plagues of all Commonweales.

E

sayth, That the only way of safetie for an estate, is when as men liue in common: the which cannot be whereas is any proprietie. And *Plato* hauing charge to frame the Commonweale and new Colonie of the Thebans and Phociens, by the consent of the subiects which sent Ambassadors to him to that end, he departed, leauing it vnfin- ished, for that the rich would not impart any of their wealth vnto the poore: the which *Licurgus* did with the hazard of his life, for after that he had banished the vse of gold and siluer, he made an equall distribution of the lands. And although that *Solon* could not do the like, yet his will was good, for that he made frustrate all bonds, and granted a generall abolition of debts. And after that the vse of gold and siluer was allowed in Lacedemon after the victorie of *Lisander*, and that the testamentarie law was brought

Equalitie the surest maintenance of a Commonweale.

in, the which was partly the cause of inequality of goods: King *Agis* seeking to bring F
 in the ancient equalitie, he caused all bonds and obligations to be brought into a pub-
 like place and there burnt them, saying, That he had neuer seene a goodlier fier: then
 he began to deuide his owne goods equally, but when he sought to distribute the
 lands, he was cast into prison by the Ephiores and there slaine. In like sort *Nabis* the
 tyrant hauing taken the citie of Argos, published two Edicts, the one to free them
 of all debts, the other to deuide the lands equally: *Duas faces* (sayth *Titus Liuius*) *no-*
nauantibus res ad plebem in optimates accendendam: Two firebrands for them that sought
 for innouations to kindle and incense the people against the better sort. And al-
 though the Romans haue in that point seemed more iust than other nations, yet G
 haue they often granted a generall recision of debts sometimes for a fourth part,
 sometimes for a third, and sometimes for all; hauing no better meanes to pacifie
 the mutinies and seditions of the multitude, least it should happen vnto them as it did
 vnto the chiefe men among the Thuriens, who hauing gotten all the lands into their
 hands, the people seeing themselues opprest with debt and vsurie, and without any
 meanes to satisfie, they fell vpon the rich and expelled them from their goods and
 houses. These reasons may be held goodly in shew, when as in truth there is nothing
 more pernicious and dangerous to Commonweales, than equalitie of goods, the
 which haue no firmer support and foundation than faith, without the which neither
 iustice, nor publike societie can stand, neither can there be any faith, if there be not a due
 obseruation of conuentions and lawfull promises. If then bonds be broken, contracts H
 disanulled, and debts abolished, what can there be expected but the viter subuersion of
 an estate? for there can be no trust one in an other. Moreouer such generall abolitions
 do most commonly hurt the poore, and ruine many, for the poore widowes, orphe-
 lins, and meaner sort hauing nothing but some little rent, are vndone when this aboli-
 tion of debts comes; whereas the vsurers preuent it, and oftentimes gaine by it: as it
 happened when as *Solon* and *Agis* did publish an abolition of debts, for the vsurers
 (hauing some intelligence thereof) borrowed money of all men, to defraud their cre-
 ditors. Besides, the hope of these abolitions do incourage the prodigall to borrow at
 what rate soeuer, and when their credit is crackt, to ioyne with the poore which are dis-
 contented and desperate, and to stir vp seditions: whereas if the hope of these aboli- I
 tions were not, euery one would seeke to gouerne his estate wisely, and to liue in peace.
 If it be vniust for the creditor to lose his goods, and the debter to gaine that which is
 not his, how much more vniust is it to take land from the lawfull owners to enrich
 other men with their spoyles: for they that seeke to be freed from their debts, pretend
 the oppression of vsurie, and the barren nature of silver, the which cannot be in lawfull
 successions, so as we may rightly say, that such a diuision of another mans goods, is a
 meere robberie vnder a shew of equalitie, and the ruine not onely of a Commonweale,
 but of all humane societie. To say, That equalitie is the nurce of friendship; is but to
 abuse the ignorant: for it is most certaine, that there is neuer greater hatred, nor more
 capitall quarrels, than betwixt equals: and the ialousie betwixt equals, is the spring and
 fountaine of troubles, seditions, and ciuill warres. Whereas contrariwise the poore and K
 the weake yeeld and obey willingly the great, rich, and mightie, for the helpe and pro-
 fit which they expect: which was one of the reasons which moued *Hippodamus* the law
 giuer of the Milesians, to ordaine, That the poore should marrie with the rich, not one-
 ly to auoid inequality, but also to make their friendship the more firme. And whatso-
 euer they say of *Solon*, it appeares sufficiently by the institution of his Commonweale,
 that he made foure degrees of citisens according to their reuenues, and as many de-
 grees of state and honours: the rich had fixe hundred measures of corne, wine, or oyle,
 in

Equalitie of
goods dange-
rous to a Com-
monweale.

Abolition of
debts ruins the
poorer sort.

The equall diui-
sion of lands
most iniust.

Equalitie of
goods the ruine
of humane so-
cietie.

Solons diuision
of citisens.

A in rent; the next three hundred, others two hundred, and those which had lesse might beate no office of honour. And euen *Plato* hath made three estates in his second Commonweale, one richer than another, ordaining, That every one of the five thousand & fortie citisens, should leaue one of his children sole heire. And as for that which *Licurgus* did, who would haue equalitie perpetually obserued in succession, diuiding the lands by the powle; it was impossible, for that he might see before his eyes, or soone after, this equalitie quite altered, some hauing twelue or fiftene children, others one or two, or none at all: the which would be more ridiculous in those countries whereas pluralitie of wiues is tollerated, as in Asia, and in a manner throughout all Affrike, and at the new found lands, whereas it falles out oftentimes, that one man hath fiftie children. Some haue sought to preuent this inconuenience, as *Hippodamus* law-maker to the Milesians, who would not allow aboue ten thousand citisens, the which *Aristotle* did like well of, but by that meanes they must banish the ouerplus, or else execute the cruell law of *Plato* approued by *Aristotle*, who hauing limited the number of his citisens to fivethousand and fortie, ordained that they should cause the rest to miscarrie as soone as they were conceiued, and those that were borne lame or crooked should be cast off: the which cannot be spoken without great impietie, that the goodliest creature which God hath made, should not only be made away after it is borne, but also be destroyed in the mothers womb. Whereunto *Thomas Moore* Chancellor of England seemes to agree, who would not haue lesse than ten, nor more than 16 children in one familie: as if he might commaund nature. And although that *Phidon* law-giuer to the Corinthians did seeme to foresee it more wisely, forbidding expressly to build any more in Corinth (as they made a defence not to build in the suburbs of Paris, by the kings Edict in the yeare 1558,) yet the subiects multiplying they must either erect a new Colonie, or banish them iniuriously. But in my opinion they erre much which doubt of scarcitie by the multitude of children and citisens, when as no cities are more rich nor more famous in atts and disciplines than those which abound most with citisens. It is indeed lesse to feare that by reason of so great a multitude of citisens there will be deuisions, for that there is nothing that doth keepe a citie more free from mutinies and factions than the multitude of citisens, for that there are many which be as a meane betwixt the rich and the poore, the good and the wicked, the wise and the simple, and artificers and noblemen, which may recouile these extremes when they disagree: and there is nothing more dangerous than to haue the subiects diuided into two factions without a meane, the which doth vsually fall out in cities where there are but few citisens. Laying aside therefore this opinion of equalitie in a Commonweale already framed, rauishing and taking away another mans goods, whereas they should preferue to every man his owne, according vnto the law of nature; and reiecting also them that would limit the number of the citisens, we will maintaine that this deuision of portions ought not to be allowed but in the framing of a new Commonweale in a conquered cuntry: the which diuision should be made by families, and not by the powle, reseruing alwaies some prerogatiue for one of the familie, and some right for the elder in euerie house, according to the law of God; who doth shew vs with his finger what course to take, for hauing chosen the tribe of *Leui* to giue him the right of the elder aboue the other twelue, he gaue them no lands but only houses in cities, appointing them the tenth of euerie tribe (which was twelue tenths) without any labour, the which was twise as much at the least as any tribe had, all things deducted. And among the Leuites the right of the elder was reserued to the house of *Aaron*, which had the tenth of the Leuites, and all the oblations and first fruites: and to euerie priuat house he assigned twise as much of the goods and lands vnto the elder as to any other of the

Equalitie impossible to be kept in a state.

A cruell law made by *Plato*.

It is iniurious to tye a citie to a certaine number.

Great cities are lesse subiect to seditions than others.

The manner how to diuide a conquered citie.

Deuision of land by the law of God.

heires, excluding the daughters wholie from the succellion, but for want of males in the same degree, whereby we may iudge that the law of God hath directly reiected all equalitie, giuing to one more than to another: and yet he hath kept among the twelue tribes, except that of *Leui*, an equall deuision of inheritances; and among the yongers an equall deuision of the succellion, except the right of the elder, the which was not of two third parts, nor of foure fise parts, nor of all; but of the halfe, to the end that such inequality should not be the cause of the great wealth of some few subiects, and the extreame pouertie of an infinit number: which is the occasion of murders among brethren, of diuisions in families, and of mutinies and ciuill wars among subiects. And to the end the diuisions thus made may remaine indifferent, there must not be any prohibition of alienation, either in a mans life, or by testament; as it is vsed in some places, if we will obserue the law of God, which ordaines, That all succellions sold, shall returne the fiftieth yeare to the house, familie, or tribe, from the which it was sold: wherby the poore that are afflicted, and forced to sell to supply their necessities, shall haue means to sell the fruits and reuenues of their lands to the fiftieth yeare, the which shall returne afterwards to them or to their heires: ill husbands shall be forced to liue in penurie, and the couetousnesse of the rich shall be preuented.

Abolition of
debts pernicious.

As for abolition of debts, it was a thing of a dangerous consequence, as it is said, not so much for the losse of the creditor (the which is of no great moment, when the question is of the publike state) as for that it opens a way for the breach of faith in lawfull conuentions, and giues occasions to mutines to trouble the state, hoping still to haue abolition of debts, or at the least an abatement of interestes which haue bene long due, reducing them to the fise and twentieth penie: the which hath bene obserued in Venice. We see by the law of God, that debts are not cut off, but it giues the debtor respight the seventh yeare, and suspends the debt. But the true meanes to preuent vsurers to ease the poore for euer, and to maintaine lawfull contracts, is to obserue the law of God, which hath defended all kinds of vsuries among the subiects: For the law were vnjust in regard of straungers, if it were lawfull for them to deliuer out money vpon interest vnto the subiect, from whome he should draw his whole estate, if the subiect might not vse the like prerogatiue vnto straungers. This law hath bene alwaies much esteemed of all lawgiuers, and of the greatest Politicians, that is to say, of *Solon*, *Licurgus*, *Plato*, *Aristotle*, and euen the ten commissionars deputed to reforme the customes of Rome, and to make choyce of the most profitable lawes, would not allow aboue one in the hundred for interest; the which they called *Vnciarium*, for that the vsurie of euerie moneth came but to an ounce, which was the twelfth part of the hundreth crowne which had bene borrowed, and the vsurer which exacted any more, was condemned to restore foure fold: esteeming the vsurer (as *Cato* said) worse than a theefe, which was condemned but in the double. The same law was afterwards published anew at the request of the Tribune *Duilius* in the yeare of the foundation of Rome 395: and ten yeres after *Torquatus* and *Plautius* being Consuls, it was reduced to halfe an ounce in the moneth, and a halfe penie in the hundred: so as it did not equall the principall but in two hundred yeares. But the yeare following vsurie was quite forbidden by the law *Genutia*, for the dayly seditions which happened by the contempt of those lawes of vsurie: for what moderation soeuer you make of vsurie, if it bee any thing tollerated it will soone encrease. And those which maintaine vnder a color of religion, That moderat vsurie or rents, after foure or fise in the hundred, are honest and iust, for that the debtor reapes more profit than the creditor, abuse the word of God, which doth expressly forbid it. For although some would take light interest for the good of the debtor, yet many would abuse it. For euen

Vsurie must bee
cut off.

Tacit. lib. 3.
Fest. lib. 19.

An vsurer esteem-
ed worse than
a theefe.

Vsurie forbidden
in Rome.

as a hatchet at the first makes but a little rift, but in the end breakes all in sunder: so the sufferance of vnlawfull things, how small soeuer, growes in the end to all impunitie: as they which haue forbidden vsurie among Christians, and yet haue allowed it for the church and hospitals; and some also haue found it conuenient for the Commonweale and the treasure; but there is nothing that giues the subiect more occasion to breake a law, than to defend a thing, and tollerat it with some exceptions. The which is an ordinarie fault among princes and prelates, seeking to exempt and free themselves from those things which are forbidden to the subiect: & who would find that bad in particular, which is publikely allowed? And for that all defences in matter of lawes are vnprofitable without some punishment, the which are not regarded if they be not duly executed, therefore the law Genutia being ill executed, was by little and little neglected. And therefore in England they haue provided, that when as any edict was made, they presently appointed a Magistrat or Commissarie, to see the law obserued, who continued in that charge vntill the law were disanulled. But the couetousnesse of vsurers did so exceed, as they lent after twentie foure in the hundred, vntill that the law Gabinia did moderat the greatest interest, at twelue in the hundred, vnlesse it were in venturing at sea, whereas the creditor tooke vpon him the hazard: But this law was ill executed in the prouinces, whereas they did take fortie eight in the hundred for a yeare, For the extreame necessitie of him that borrowes, and the insatiable couetousnesse of him that lends, will alwayes find a thousand deuises to defraud the law. The punishment of vsurie was verie seuer in the Commonweale of the Candiots: and therefore hee that would borrow seemes as if he would take it violently from the creditor: so as if the debtor did not pay the intrest, which they could not recouer by law, he was accused as a theefe and robber: the which was but a grosse shift, in regard of their sales they make at this day, the Notarie putting in this cause, *And the rest in money*. It is true, that at the first councill of Nice, the bishops procured the emperour to forbid vsurie in money and fruits: the which in regard of fruits, were so much and halfe so much more: that is to say, fiftie for a hundred. But it was not obserued, especially for fruits, whereas he that borrowes in a time of dearth is glad to pay it againe and halfe as much more after harvest. Wherein it seemes there is great reason, for hee that lends might haue gained more if he had sold it in a time of scarcitie, as they do commonly. Besides there is nothing deerer than that which nourisheth, nor any thing more necessarie. And therefore the emperour *Iustinian* hauing rated vsurie for the countrey man at foure in the hundred in money, he decreed, They should pay but twelue in the hundred in fruits, and not fiftie in the hundred as had bene formerly vsed. *Charles* of Molins had no cause to seeke to correct the Greeke and Latine text of the law, against the truth of all copies, that hee might defend the edict of *Lewes* the twelfth, and the decrees of the court of parliament, which made equall the interest in fruits and money: but the difference is great betwixt the one and the other: for by *Iustinians* law, the poore labourer reaped great profit, being freed for thirteen bushels of corne after harvest, for twelue which he had borrowed in a time of dearth: and yet by this correction which Molins giues, he should be freed for a third part of a bushell, the which is verie absurd; seeing that before *Iustinians* decree, it was lawfull to take fiftie in the hundred for fruits. It is farre better to relie vpon the law of God, which doth absolutely forbid vsurie; and the creditors good deeds shall be more meritorious and more honourable to lend without profit, than to receiue of the poore laborer, in the qualitie of vsurie, a handfull of corne, for so great and necessarie a good turne. Therefore *Nehemias* (after the peoples returne from captiuitie) did forbid them to take any more vsurie, as they had done before taking twelue in the hundred, as well in money as in fruits: and according to this example

Laws are vnprofitable without penalties.

Vsurie in fruits seemes tollerable

Nothing deerer or more necessarie than that which nourisheth.

A meritorious deed to lend without vsurie.

ple the decree of Nice was made : but after that *Calixtus* the 3, & *Martin* the 5, popes, had giuen way to rents & annuities, the which were little before that time in vse; the interest hath growne so high, as the vsurie limited by *Iustinian*, & partly practised by the Cantons of the Swissers, is farre more easie and more supportable, although the laws of Fraunce and Venice do not allow any man to demaund aboue fise yeares arrerages past : For this sufferance of interest, without interest hath growne to be a law, wherby the vsurers doe sucke the blood of the poore with all impunitie, especially in sea towns, where there is a common bourse or banke; as at Genes, where there are some worth foute or fise hundred thousand duckets, others aboue a million, as *Adam Centenier*, & they say that *Thomas Marin* hath twice as much. So as the marchant for the sweetnes of gaine giues ouer his traffique, the artificer scornes his shop, the labourer leaues his labour, the shepheard his flocke, and the noble man sels his land of inheritance, to make fortie or fiftie pounds a yeare rent in annuities, in stead of ten ponnys a yeare in fee simple land. Then afterwards when as the rents faile, and the money is spent, as they know which know not any other good meanes to liue, giue themselues to theeuing, or to stir vp seditions and ciuill warres, that they might robbe secretly : the which is the more to be feared, when as one of the estates of the Commonweale, and the least in force and number, hath in a manner as much wealth as all the rest; as it hath bene seene heretofore in the state of the Church : whereas the hundred part of the subiects in the Westerne Commonweales, making the third estate, had the tythes of what nature soeuer, and against the lawes of the primitiue Church (as the Popes themselues confesse) and haue seized vpon testamentarie legacies, as well mouables as immouables, Dutchie Counties, Baronies, Lordships, Castles, houses both within and without Townes, rents of all sorts, and bonds made freely; and yet they tooke successions of all sides : they sold, exchanged, purchased, and imploied the reuenues of their benefices for other acquisitions; and all without taxe, subsidie, or any charge, euen in those places whereas the taxes are personall. So as it was necessarie to enioyne the Cleargie to put away such land as had bene left vnto the church within a certaine time, vpon paine of confiscation : as by a law made in England by king *Edward* the first, which did forbid all church men to purchase any land; as it appeareth in *Magna Carta*: the which hath bene since renewed by the emperour *Charles* the fift in Flanders, vpon paine of confiscation : the which seemes to haue bene forbidden in old time. For we find that earles of Flanders haue bene heits vnto priests : which custome was abolished by pope *Vrbis* the fift. For the same reason the parliament at Paris did prohibit the Chartrens and Celestines of Paris, to purchase any more, against the opinion of the abbat of Palerme. Yet these defences were grounded vpon the chapter, *Nuper de decimis*. And at Venice it hath bene enacted, and church men were commanded to dispossesse themselues of all lands, prohibiting to leaue any legacie to a Cleargie man, nor to make a will by the mouth or writing of a cleargie man. And by a law made at the request of the states of Orleans, the twentie seuenth article, all cleargie men are forbidden to receiue a testament or last wil, in the which any thing is giuen him (the which is verie ill executed) for the abuses that were committed. Not a hundred yeares since within this realme, they would not haue laid any dead bodie in holy buriall, if hee had not bequeathed some legacie vnto the church; so as they tooke out a commission from the officiall directed to the first priest of the place : who taking a view of his goods that had died intestat, bequeathed what he pleased vnto the church in his name that was dead : the which was reproued by two decrees of the parliament of Paris, one in the yeare 1388, and the other in the yeare 1401. I haue also a declaration drawne out of the Treasure of France, by the which the twentie barrons of Normandy named in the act, dated in the yere 1202, declare

Annuities worse
than interest.

The Clergy en-
riched, and o-
thers made poor.

Clergy men for-
bidden to pur-
chase lands.

In old time every
man was forced
to leaue some-
thing vnto the
church.

A declare vnto *Philip Augustus*, That the goods of him that dies without making a will, belonged vnto him, hauing laine three dayes sicke before his death: and by the confirmation of the priuileges of *Rochell*, graunted by *Richard* king of England and earle of Poitou, it is said, That the goods of the *Rochelois* should not bee confiscat, although they died intestat: the which was also common in Spaine, vntill the ordinance made by *Ferdinand* in the yere 1392, bearing these words, *Que no sellauen quintos da los que mueren sin fazer testamento dexando hijos o parientes dentro del quarto grado que pueden ha-uer & heredar sus bienes, vz.* The fift shal not be leuied of those which die intestat, so as they haue any children, or kinsfolke within the fourth degrec fit to succeed. It is no wonder then if the clergy were rich, seeing that enerie man was forced to make a wil & to leaue the church a legacie, vnder rigorous paines; being also strailly defended for many yeares, not to alienat nor rent out the goods of the church, vpon paine of nullitie. By the commaundement of *Charles* the ninth a suruay was made of all the reuenewes of the church within this realme, the which was found to amount to twelue hundred and thirtie thousand pounds sterling a yere rent, not comprehending the ordinarie and extraordinarie alms. But *Allemont* president of the accounts at Paris, made an estimat, That of twelue parts of all the reuenewes of Fraunce, the Cleargie enioyed seuen. And by the registers of the chamber of accompts it appeeres, that within this realme there are twelue Archbishopricks, 104 Bishopriks, 540 Abbaies, and 27400 parishes or cures (taking euery towne for a cure, and the least village for one where there is a parish) besides Priories and begging friers. Their reuenues had been far greater if Pope *John* the 22 had not disannulled the decree of Pope *Nicholas*, who had allowed all begging friers to enioy the frutes of lands, and the Pope should haue the proprietie, the which was a grosse cunning to frustrate the vowes of pouertie, for that the proprietie is fruitlesse and in vaine, as the law saith, if the vsufruct were perpetuall, as bodies and colledges be. I do not speake of the well imploying of their goods, but I say that this great inequalitye (it may be) hath ministred occasion of troubles and seditions against the Clergie, throughout all Europe, when as in shew they made a cullour of religion: for if this occasion had not been, they had found out some other, as they did in time of our predecessors against the Templers and the Iewes; or else they would haue required a new deuision of lands, as *Philip* the Roman Tribune did for the people, pretending that there were but two thousand men in Rome which possessed all, although they were numbred in all to be aboute three hundred thousand; and those few did so increase in wealth, as *Marcus Crassus* by a declaration of the Censors, was esteemed to be worth fixe millions of crownes: and fiftie yeaies after *Lentulus* the high Priest was found to be worth ten millions of crownes. The Romans laboured to preuent these inconueniences, publishing many lawes touching the deuision of lands: among the which the law *Quintia* and *Apuleia*, would haue the conquered lands deuided among the people, the which if they had bin well executed, those seditions had bin preuented which so troubled the Commonweale: but the mischief was, that the conquered lands were farmed out by fauour to priuat men, with a pretence of benefit to the Commonweale, vpon condition to pay the tenth of graine, and the fift of frutes, and some rent for the pastures: yet this rent and other duties were not paid, for that great men held them in other mens names: for which cause *Sextus Titius* the Tribune presented a request vnto the people, to the end that the receiuers of the reuenues might leuie the arrerages that were due, the which was granted, but being not well executed, it was a meanes to present other requests vnto the people, that the lands and reuenues of the Commonweale which priuate men held without paying any thing, might be deuided among the people: the which did greatly amaze the rich, and caused them to suborne *Thorius* the

The auncient rights of the duke of Normandie and earles of Poitou.

The reuenewes of the Clergie in France.

The proprietie of land is in vaine whereas the vsufruct is perpetual

An occasion found out to ruine the Clergie.

The cause of seditions in Rome.

Tribune

Tribune vnder hand, That by his intercession vnto the people the lands should remain still in their possessions, and the arrerages should be paid vnto the receiuers of the reuenues: which law they caused afterwards to be abrogated, when as the magistrates themselves held the lands, of the which they could not be dispossessed, nor forced to pay without great disturbance to the state. In the end the law Sempronia was published by force, at the request of *Tiberius Gracchus*, the which differed from the law Licinia, by the which all men were forbidden (of what estate or qualitie soeuer) to hold aboute fise hundred acres of the Commonweales land, a hundred kine, and fise hundred sheepe and goates, and to forfeit the ouerplus: but the law Sempronia spake of nothing but of the publike lands, ordaining that euery yeare there should be three Commis-sioners appointed by the people to distribute vnto the poore the surplusage of fise hundred acres that should be found in any one familie: but the Tribune was slaine the last day of the publication, in a sedition moued by the Nobles: yet *Caius Gracchus* his brother being Tribune of the people ten yeres after, caused it to be put in execution, but he was slaine also in the pursuite thereof, after whose death the Senate to pacifie the people caused it to be executed against many. And to the end those lands should not remaine waste, the poore wanting cattell and meanes to till it, it was ordained that according vnto the law Sempronia of *Tiberius Gracchus*, the treasure of king *Attalus* (who had made the people of Rome his heire) should be distributed among the poore, to whom they had giuen part of the lands: by which meanes many of the poore were prouided for. And to take away occasion of future seditions, they sent away part of the poorer sort into Colonies, to whome they did distribute countries conquered from the enemy. But there was one article in the law of *C. Gracchus* which was most necessarie, and yet it was abrogated, Prohibiting the poore to sell or make away those lands that were assigned vnto them: for the rich seeing that the poore had no meanes to entertaine those lands, redeemed them.

Lawes made for
the distribution
of lands.

The testamenta-
rie law the cause
of inequalitye.

There was also another cause of this inequalitye of goods, which was by the libertie that euery one had to dispose freely of his goods, and to whom he pleased, by the law of the twelue Tables. All other people, except the Athenians (where *Solon* first published this law) had not free libertie to dispose of their lands. And *Licurgus* hauing deuided the lands of the inhabitants of the citie into seuen thousand parts (some say more, others say lesse) and the lands of the countrie into twelue thousand equall parts, he did not suffer any one to dispose thereof; but contrariwise, to the end that in pro-
cesse of time the seuen thousand parts of inheritance might not be sold, or diminished into many members, it was decreed, That the elder of the house, or the next of kin should succeed to the whole inheritance; and, that he could not haue but one part of the seuen thousand; and he must be also a Spartaine borne. Others were excluded from the succession, as *Plutarch* saith, speaking of king *Agésilas*, who in the beginning was bred vp straightly as a younger brother, for that hee was issued of a younger house. This for a time did entertaine the 7000 families in equalitie, vntill that one of the Ephores being incensed against his eldest sonne, presented a request vnto the Seigneurie, the which passed for a law, by the which euery man had libertie to dispose of his goods by will. These testamentarie lawes being receiued in Greece, and afterwards published in Rome, and incerted in the twelue tables, were the cause of great alterations. But the people of the East and West might not dispose of lands by testament: a custome which is yet obserued in some parts of France, Germanie, and other nations of the North. And therefore *Tacitus* writes, that the Germanes had no vse of Testaments, the which many haue vnadvisedly attributed to ignorance and barbarisme. And euen in Polonia it is expressly forbidden by the lawes of the two *Sigismonds*, ac-
cording

In Poland and
many other parts
of the North,
they may not
dispose of lands
by testament.

A cording vnto the antient customes, to dispose of lands by testament. The Oxiles and the Phytalles had a stricter custome, forbidding them to pawne any lands. And by the custome of Amiens and other customes of the Lowcountrie of Flanders, no Nobleman might sell away their seigneuries vntill they had solemnely sworne pouertie: the which is also strictly obserued in Spaine. We haue also said before, that the law of God did expressly defend all alienation of lands, either in a mans life or by testament, reseruing the right of the elder in euery familie, without any difference of noble or villain, according to *Licurgus* law in his deuision of 7000 parts in Lacedemon: and those of Caux in Normandie, as well the Gentlemen as others, do much better preserue the dignitie and beautie of their antient houses and families, the which by this meanes are not dismembred, and all the estate of the Commonweale in generall: the which is the more firme, and stable being grounded vpon good houses and families, and as great and immouable pillars, the which could not support the burthen of a great building, if they were weake, although they were many. And it seemes that the greatnes of France, Spaine, and England is supported by great and noble families, and by corporations and Colleges, the which being dismembred into peeces, will be the ruine of the State. But this opinion is more probable than necessarie, vnlesse it be in an Aristocraticall estate: for it is most certaine that in a Monarchie there is nothing more to be feared than great men, and corporations, especially if it be tyranicall: As for a popular estate which requires equalitie in all things, how can it endure so great inequality in families, whereas some should haue all, and others die of hunger: seeing that all the seditions which haue happened in Rome and in Greece haue been grounded vpon this point. There remaines an Aristocratie where as the noble and great men are vnequall with the common people, and in this case the right of the elder may maintaine the estate, as in the seigneurie of Sparta, whereas the seven thousand parts equally diuided vnto the elder of euery familie, maintained the State: and as for the yonger brethren, vertue aduanced them to offices and honors according to their merits: and commonly they proued the most famous, hauing (as *Plutarch* said) nothing to aduance them but their vertues. It was the antient custome of the Gaules: and without doubt our Nobilitie would be much more esteemed, if the prohibition of selling of their seigneuries were duly executed, according to the lawes and ordinances of this realme, and of the Empire, where it is better obserued. The like defences were made in Polonia, by the lawes of *Albert*, & *Sigismund Augustus* kings in the yere 1495 & 1538, & by an edict made by *Peter* duke of Brittain, forbidding the common people to purchase the seigneuries of noble men, vpon paine of confiscation. And although that *Lewis* the 12 disannulled those defences in the yere 1505, yet king *Francis* the first renewed the Edict in the yere 1535 vnder the same paine of confiscation. The meanes to vnite the nobilitie and the common people more strictly together, is to marrie the yonger children of noble houses being poore (in an Aristocraticall estate) with the Plebeians that are rich, as they did in Rome after the law *Canuleia*; the which is practised at this day by the Venetians, and almost in euery Commonweale, whereas the nobilitie hath any prerogative ouer the common people: the which is the surest way to maintaine the nobilitie in wealth, honour, and dignitie. And yet it is necessarie to moderat the dowries of women in what estate soeuer, least that meane houses be not beggered to enrich the nobles: wherein the antient lawgiuers haue been much troubled to obserue this equalitie, and to prouide that ancient houses and families might not be dismembred and ruined by the daughters. The law of God would not allow the daughters to succeed if there were any brethren: and although there were not any, yet the daughters that were heires were commanded to marrie the next kinsman of that familie: to the end

In some places noble men may not sell away their seigneuries.

Great kingdoms supported by noble families, especially in an Aristocraticall estate, but they are contrarie to a Popular estate, or to a Tyranny.

Inequality maintained the estate of Sparta.

Laws prohibiting noble men to sell their seigneuries.

A meane to vnite the gentry & the plebeians.

In the East parts
the daughters
inherit no lands.

The inequality
of goods grows,
for that the
daughters being
heires are marri-
ed to the rich.

The law of suc-
cession at Rome,
defrauded.

A commendable
law at Venice,

The law of
Fraunce for the
marriage of
daughters.

saith the law, that the inheritance may not be drawne from the house by the daughters. This law was obserued in Greece, where as the next kinsman married the heire, neither might the daughter marrie with any other. In Persia and Armenia the daughter had nothing of the house but the moueables: a custome which is yet obserued in all the East, and almost throughout all Affrike, although that *Iustinian* the Emperour, or rather *Theodora* his wife, hauing alwayes fauored her owne sexe, reformed that custome of Armenia, terming it barbarous, not regarding the intention of the antient lawgiuers. *Hippodamus* lawgiuer to the Milesians, would not frustrate the daughters of all succession, but he ordained that the rich should marrie with the poore, wherein he did obserue the equalitie of goods, and entertained loue betwixt the couples, and betwixt the poore and the rich. It is most certaine that if the daughters be made equall with the sonnes in the right of succession, families shall be soone dismembred: for commonly there are more women than men, be it in Commonweales in generall, or in priuate families: the which was first verified at Athens, where as the pluralitie of women gaue name vnto the citie: and within these twentie yeares at Venice, (whether comes a world of strangers) there was found vpon a suruaie two thousand women more than men: whether it be that they are not subiect to the dangers of warre and trauell, or that nature is apter to produce those things that are lesse perfect. And therefore *Aristotle* said in his Politikes, That of fise parts of inheritance the women of Sparta held three, the which came by the permission of the testamentarie law; and for this cause (saith he) they commanded absolutely ouer their husbands, whom they called Ladies. But to prevent this inconuenience at Rome, *Voconius Saxa* the Tribune, by the perswasion of *Cato* the Cenfor, presented a request vnto the people, the which passed for a law, whereby it was enacted, That the females should not succeed so long as there were any male carrying the name, in what degree of consanguinitie soeuer he were; and, that they might not haue giuen them by testament aboue the fourth part of the goods; nor more than the least of the Testators heires. This law retained the antient families in their dignities, and the goods in some equalitie, keeping women in some sort in awe: yet they found a meanes to defraud it, by legacies and feofments made in trust to friends, with request to restore the successions or legacies vnto the women which could not recover them by order of law nor by petition, before *Augustus* time; who following the pernicious counsell of *Trebatius*, tooke an occasion to abrogate the law, demanding a dispensation of the law *Voconia* of the Senat, for his wife *Liui*a: so as this law being troden vnder foot, the Roman citizens began to be slaues vnto their wiues, who were their mistresses both in name and effect. Then might you haue seene women weating two rich successions at their eares, as *Seneca* saith; and the daughter of a Proconsull who did weare at one time in apparell and iewels the value of three millions of crownes, the inequality of goods being then at the highest, after which time the Roman empire declined still vntill it was wholie ruined. By the antient custome of Marfeilles it was not lawfull to giue aboue a hundred crownes in marriage with a daughter, and fise crownes in apparell. And by the Statutes at Venice it is forbidden to giue aboue 1600 ducats to a noble mans daughter: and if a Gentleman of Venice marrie a citizens daughter, he may not take aboue two thousand ducats; nor the females succeed so long as there is any male of the familie: but in truth this law is as ill obserued as that of king *Charles* the 9, which forbids to giue vnto a daughter in marriage aboue a thousand pounds starling, and yet the ordinance of king *Charles* the 5 doth giue no more vnto the daughters of the house of France. And although that *Elizabeth* of France, daughter to *Philip* the faire were married vnto the king of England, yet had she but twelue hundred pounds starling to her dowrie. Some one will say vn-

A to me, that it was very much, considering the scarcetie of gold and siluer in those daies : but the difference also is very great betwixt a thousand pounds, and foure hundred thousand crownes. It is true that she was the goodliest Princeesse of her age, and of the greatest house that was at that day. And if we will seeke higher, we shall find in the law of God that the marriage of a daughter at the most was taxed but at fiftie sicles, which make fower pounds sterling of our money, in which penaltie he was condemned that had seduced a virgin, whom also he was forced by the law to bring home, if the father of the maiden so pleased: which makes me beleue that the antient custome of the Persians is likely, for that the Commissioners deputed yearly to marrie the maids gaue the honestest and fairest to them that offered most, and with that money they married them that were lesse esteemed (that none might be vnprovided for) with this caution to them that married the deformed, Neuer to put away their wiues, but in restoring of their dowries: by the which they provided for the marriage of maids, the modestie of wiues, the dignitie of husbands, and the publike honestie whereon wise lawgiuers should haue a speciall care, as *Plato* had. For to take from the daughters all meanes to prefer themselves according to their qualities, were to giue occasion of a greater inconuenience. And it seemes that the customes of Aniou and of Maine haue giuen them a third part in successions, of gentlemen in fee simple, the which is left to the yonger males but for terme of life, to the end the daughters should not be vnprovided for, hauing not meanes to aduance themselves like vnto the males: for the reformation of which custome they haue heretofore made great complaints: the which might as well be done, as in the custome of *Mondidier*, and in that of *Vendosme*, (an antient dependance of the countrie of Aniou, before that it was erected to a Countie or a Duchie) where as a yonger brother of the house of Aniou, hauing taken his elder brother prisoner, made him to change the custome of Aniou in regard of the Chastelleine of *Vendosme*, the which he had but for terme of life. And although that in Brittanie by the decree of *Cont Geoffrie* in the yeare 1181 the eldest in gentlemens houses caried away all the succession, and maintained the yonger at his owne pleasure: yet to preuent infinit inconueniences, *Arthur* the first duke of Brittanie enacted, That the yonger children should haue a third part of the succession for terme of life, as it is obserued in the countrie of *Caux*, by a decree of the Parliament at Rouen, the daughters portions being deducted. I haue hitherto treated of subiects only, but we must also take heed least that strangers set footing within the realme, and purchase the goods of the naturall subiect: and preuenting all idle vagabonds which disguise themselves like Egyptians, when as in truth they are very theeues, whom all Magistrates and Gouvernors are commanded to expell out of the realme by a law made at the estates of Orleans, as it was in like manner decreed in Spaine by *Ferdinand* in the yeare 1492 in these words, *Que los Egipcianos con seniores salgan del Reyno dentro sessenta dias*: That all the Egyptians with their women shall depart out of the realme within threescore daies. This swarme of caterpillers do multiplie in the Pyrenees, the Alps, the mountaines of Arabia, and other hillie and barren places, and then come downe like wasps to eate the honie from the bees. Thus in my opinion I haue set downe briefly the fittest meanes to preuent the extreme pouertie of the greatest part of the subiects, and the excessiue wealth of a small number, leauing to discourse hereafter, If the lands appointed for the seruice of the warre may be dismembred or sold. Let vs now see if the goods of men condemned should be left vnto their heires.

The law of God
for dowries.

The law of
Persia.

Custome of
Aniou.

CHAP. III.

Whether the goods of men condemned should be applied vnto the common treasure, or to the Church; or els left vnto the heires.



It seemes against the law of nature to take the succession of the father condemned from the child.

Iustinian left the goods of the condemned vnto the heire.

Wicked men will attempt any thing to enrich their children.

His Chapter depends vpon the former, for one of the causes which brings the subiects to extreame pouertie, is to take the goods of the condemned from their lawfull heires, and especially from children, if they haue no other support nor hope, but in the succession of their parents: and the more children they haue, the greater their pouertie shall be, to whome the succession of their fathers belongs by the law of nature, and who by the law of God should not suffer for their fathers offences. By which confiscations not onely the lawes of God and nature seeme to be violated, but the children (who haply haue bene bred vp in delights) are oftentimes reduced to such pouertie and miserie, as they are thrust into despaire, and attempt any villanie, either to be reuenged, or to flie from want which doth oppresse them. For we may not hope, that they which haue bene bred vp as maisters, will serue as slaues: and if they haue not in former times learned any thing, they will not now begin, when as they haue no meanes. Besides the shame they haue either to beg, or to suffer the reproach of infamie, doth force them to banish themselves, and to ieyne with theeues & robbers: so as for one sometimes there goe forth two or three worse than hee that had lost both life and goods: so as the punishment which serueth not onely for a reuenge of the offence, but also to diminish the number of the wicked, and for the fastie of the good, produceth quite contrarie effects. These reasons briefly run ouer, and amplified by some examples, seeme necessarie to shew that the law of *Iustinian* the emperour, receiued and practised in many countries, is most iust and profitable: whereby it was enacted, That the goods of them that were condemned should be left vnto their heires, vnlesse it were in case of high treason. Contrariwise some may say, that this is a new law, and contrarie to all the auntient lawes and ordinances of the wisest princes & lawgiuers, who would haue the goods of any one condemned, adiudged vnto the publicke, without some especiall cause to moue them to the contrarie: bee it for reparation of faults, which oft times is pecuniarie, and is to be paid to the Commonweale interested, for els there should bee no meanes to punish by fines, the which is an ordinarie kind of punishment: be it for the qualitie of the crimes, and of those that haue robbed the Commonweale, which must be satisfied out of his goods that hath offended: or to terrifie the wicked, which commit all the villanies in the world to enrich their children, and many times they care not to loose their liues, yea to damne themselves, so as their children may be heires of their robberies and thefts. It is needlesse to proue this by examples, the which are infinit: I will onely produce one of *Cassius Licinius*, who being accused and condemned of many thefts and extortions, and seeing *Cicero* (who was then president) putting on his purple robe, to pronounce the sentence of confiscation and banishment, he sent one to tell *Cicero* that he was dead during the proceffe, & before the condemnation, choaking himselfe in view of the judges with a table napkin, to the end he might saue his goods for his children: Then *Cicero* (saith *Valerius*) would not pronounce the sentence. It was in the power of the accused to saue his life in abandoning of his goods, according vnto the conclusions of his accusers: as *Verres* and many others in like case did: for by the law *Sempronia* they might not condemne a bourgeoisie of Rome to death, nor whip them by the law *Portia*. And although that *Plutarch*, and *Cicero* himselfe writes to his friend *Atticus*, That hee had condemned *Lici-*

- A** *nus*, it is to be vnderstood by the aduice and opinion of all the iudges, not that he had pronounced the sentence, for those lawes were not yet made against them which killed themselves before sentence. And a hundred and fiftie yeares after, if any one being accused and guiltie of any crime, had killed himselfe through dispaire or griefe, he was buried and his testament was of force, in the time of cruell *Tiberius*; *Pretium festinandi*, (saith *Tacitus*) that is to say, Murtherers in their persons had that aduantage ouer others. But whether that he were condemned after his death, or that he died of griefe, it appeares plainely that many make no difficultie to damne themselves to enrich their children. And it may be there is nothing that doth more restraîne the wicked from offending, than the feare of confiscation, whereby their children should be left beggers.
- B** Therefore the law saith, That the Commonweale hath a great interest, that the children of them that are condemned, should be poore and needie. Neither can wee say, that the law of God or nature is therein broken, nor is the sonne punished for the father, for that the fathers goods are not the childrens: and there is no succelsion of him whose goods are iustly taken away before he is dead.

A law in fauour
of murtherers.

The law of con-
fiscation terrifies
the wicked.

- And if any one feares that want wil drive the children to dispaire, and to all kinds of wickednesse: much more reason hath he to feare, that wicked children will abuse their fathers goods, to the ruine of good men and of the Commonweale. And therefore the law excludes the sonnes of him that is condemned for high treason, from all succelsions direct and collaterall, and leaues vnto the daughters (who haue lesse power to re-
C uenge) a fourth part of their mothers goods. But there is a greater inconuenience if the goods of the condemned be left vnto their heirs, then shall the accusers and infor-
mers haue no rewards, and wickednesse shall remaine unpunished.

Rewards are ne-
cessary for accu-
sers.

- These be the inconueniences on either part, but to resoluë of that which is most fit, is most necessarie that the true debts being either publike or priuat, and the charges of informations, should be deducted out of the goods of the condemned, if they haue wherewithall: else there should be no punishment of the wicked. Yet this clause ought not to be annexed vnto the sentence, and hath bene reproued by many decrees of the court of parliament, to the end that the iudges may know, that they ought to do iustice although the condemned hath not any thing. In like sort it is necessarie that fines &
D amercements should be leuied out of their goods that are condemned in any summe of money, prouided alwayes, that it be taken out of their mouable goods, or out of that which they haue purchased, and not out of those lands which come by succelsion, the which must be left vnto the heire. And in capitall crimes, that the mouables & lands purchased, should be forfeited and sold to them that would giue most, for the charges of the proceffe, and the reward of informers; and the rest to be imployed to publike & charitable vses, the succelsion remaining to the lawful heires: in so doing you shal preuent the extreame pouertie of the children, the couetousnesse of slaundersers, the tyranny of bad princes, the euasion of the wicked, and the impunitie of offences. For to forfeit those lands which are tyed vnto the house, were no reason, seeing it is not lawfull to
E alienat them by testament, nor in many places to dispose thereof in their life time: by the which should follow a great inequality of goods. And for this reason the goods and lands purchased must be sold, and not applied vnto the church or publike treasure, least that in the end all priuat mens estates should come to the publike, or to the church: for that it is not lawfull to alienat those goods which are vnted to the reuenues of the Commonweale, or to the church. Moreover informers and accusers must bee rewarded, not with the possessions of the condemned (which might animat them to accuse good men wrongfully) but with some peece of mony: For the desire to haue the house or inheritance of another man, the which they could not obtaine for money, would

What order is to
be obserued in
their goods that
are condemned.

Lands which
come by succes-
sion cannot be
forfeited.

be a great occasion of false accusers to ruine the innocent. Yet must informers haue some reward, else the wicked shall continue their villanies with all impunitie. And as a good huntsman will neuer faile to reward his dogges with the intrails of the beast, to make them the more liuely: so a wise law-giuer must reward them which seize vppon the wolues and lions of the Commonweales. And for that there is nothing (after the honour due vnto God) of greater consequence than the punishment of offences, wee must seeke all meanes possible to attaine vnto it. But the difficultie is not small, to take the confiscations from the publike, to imploy them as I haue said, and especially in a Moarchy. Yet there are many reasons, the which a wise and vertuous prince will more esteeme for his reputation, than all the goods in the world gotten by confiscations. For if the publike reuenues be great, or the charges and impositions laid vppon the subiect sufficient, the confiscations ought not to be adiudged vnto the treasure, if the Commonweale be poore, much lesse may you enrich it with confiscations. In so doing you shall open a gate for false accusers to make marchandise of the blood of the poore subiects, and for princes to become tyrants. So we see that the height of all tyranny hath bene in proscriptions and confiscation of the subiects goods. By this means *Tiberius* the emperour made the way to a most cruell butcherie, leauing to the value of sixtie seuen millions of crownes gotten the most part by confiscations. And after him his nephewes *Caligula* and *Nero*, polluted their hands with the blood of the best and most vertuous men in all the empire, and all for their goods. It is well knowne that *Nero* had no colour to put to death his maister *Seneca*, but for his wealth. Neither shall there be at any time false accusers wanting, knowing they shall neuer bee called in question for their slaunders, being supported by the prince, who reaps part of the profit. *Plinie* the younger speaking of those times, Wee haue (saith hee) seene the iudgements of informers, like vnto theeues and robbers: for there was no testament, nor any mans estate assured. And therefore by the lawes, the kings procurator is enioyned to name the informer, least the accusation in the end should proue slaunderous: the which is necessarily obserued in Spaine, before that the kings procurator is admitted to accuse any man, by an edict of *Ferdinand*, made in the yere 1492, in these tearmes, *Que ningun fiscal pueda acusar a conserio persona particular sin dar primeramente delator*, That no fiscal or publike officer may accuse any priuat person before the Councell, but hee shall first giue in the accusers name. If confiscations haue bene alwayes odious in euerie Commonweale, much more dangerous be they in a Monarchy than in a Popular or Aristocraticall estate, where false accusers are not so easily received.

If any one will obiekt, That we need not to feare these inconueniences in a Royall estate, hauing to doe with good princes: I answer, that this right of confiscation is one of the greatest means that euer was inuented, to make a good prince a tyrant, especially if the prince be poore. For he that hath no pretext to put his subiect to death; if he hopes to haue his goods thereby, he will neuer want crime, accusers, nor flatterers. And oftentimes the wiues of princes kindle this fire, & inflame their husbands to al cruelty, to enioy the goods of them that are condemned. *Achab* king of Samaria could not get *Naboths* vinyard, neither for price nor praier, but queene *Iesabel* subborned two false witnesses, to condemne the innocent as guiltie of treason both against God and man. And *Faustine* did still importune the emperour *Marcus Aurelius* her husband, to put to death the poore innocent children of *Audius Cassius*, beeing condemned for treason, whose goods the emperour left vnto his children; as the kings of Persia were wont to doe, euen in cases of high treason, and hath bene often practised in this realm. And by the lawes of Polonia, confiscation hath no place but in the highest degree of treason: and oftentimes it is giuen vnto the kinsfolkes. But it is a hard matter to recouer the

The inconueniences which grow in adiudging of confiscations vnto the publike.

Confiscations the cause of tyranny.

Confiscations most dangerous in a Monarchy.

Tyrants are enriched by false accusations, by means of confiscations.

- A** the goods which are once forfeited, be it by right or wrong; for they hold it for a rule, That ameracements once adiudged to the crowne and receiued, are neuer restored, although the iudgement were false. The which is the more to bee feared, for that the goods of them that are condemned for treason, are forfeited to the prince, and not to the lords of the soyle, who cannot pretend any thing if another mans subiect bee condemned for treason, as they may doe in all other crimes. And although we may number as many good and vertuous kings in this realme, as euer were in any Monarchie vpon this earth, yet wee shall see that the reuenues haue bene more augmented by confiscations and forced gifts, than by any thing else. Was there euer prince in the world in vertue, pietie, and integritie, like vnto our king Saint *Lewes*? and yet by the meanes afore said, hauing caused *Peter* of Dreux to be condemned, he did confiscat, and then vnite vnto his crowne the earldome of Dreux: as he did also vnto *Thibaut* king of Nauarre and earle of Champagne, who was in the like daunger, if he had not resigned Bray, Fortione, and Monstrueil: and *Raymond* earle of Tholouse, the countrey of Languedoc. The countries of Guienne, Anion, Maine, Touraine, and Auvergne, are come vnto the crowne by confiscations in the time of *Philip Augustus*. The dutchie of Alencon, and the earldome of Perch, are also come by confiscations. In like case ^a Perigort, ^b Ponthieu, ^c la Marche, ^d Angoulesme, ^e l'Isle in Iourdain, the marquisat of Salusses, and all the goods of *Charles* of Bourbon, with many other priuat Seigneuries, haue bene forfeited for high treason, according to the custome of other Commonweales, ^f and the antient laws. But the custome of Scotland in cases of treasons is more cruell, whereas all the goods of him that is condemned accue vnto the exchequer, without any regard of wife, children, nor creditors.

1234.

1301.

a 1458.

b 1369.

c 1370.

d 1302.

e 1302.

f 1535.

- If any man will say, That the king freeing himself of those lands which hold not immediately of him, according to the edict of *Philip* the Faire, and giuing the most part of them which hold directly of him, vnto such as shall deserue well, the which he may do before they be incorporat vnto the crowne: hee shall not appropriat vnto the publike all the goods of priuat men, as else he might do in time. And to preuent this inconuenience, the king cannot recouer those lands which hold directly of him, offering the price to them that bought them: for so he might by purchase get all his subiects lands.
- D** I doe therefore thinke this more conuenient, than to adiudge the confiscations vnto the people; as they did in Rome by the law *Cornelia*, which *Sylla* the Dictator did publish, after that he had enriched his friends and partisans with the spoyles of his enemies. But there is as small reason to giue them to the flatterers of princes, and to the horse leaches of the court, as it is vsuall in all gouerned Monarchies, which opens a gap vnto false accusers, giuing vnto the vnworthy the rewards of the well deseruing. Who doth not remember (although I grieue to remember) the blood of innocent citisens shed for gaine vnder a colour of religion, to glut these horseleaches of the court? Therefore to auoide these inconueniences of either part as much as may be, I see no better meanes than that which I haue said, That deducting the charges of the suit, his iust debts being publick or priuate, and the rewards of the accusers; the surplusage of his inheritance should be left vnto the heires, and that which was purchased to charitable vses: provided alwaies that that which is giuen to the informers, or to the colleges in charitie, shall be only in money and not in lands, for the reasons that I haue formerly giuen. As for charitable works, there neuer wants meanes to imploy it, either in diuine things, or in publick works, or else about the sicke or the poore. In old time at Rome ameracements were adiudged to the treasure of Churches, to be employed in sacrifices, and therefore they called ameracements *Sacramenta*, as *Sextus Pompeius* saith: for which cause *Titius Ronilius* refused the peoples bountie, which had decreed that

Informers must
be rewarded
with money, and
not with lands.

they should restore vnto him the fine in the which he had bene condemned, saying, **F**
 That things consecrated vnto God should not be taken from him. The like was also
 obserued in Greece for the tenth of the goods that were confiscate, the which were
 adiudged vnto the Church, as we may see in the sentence giuen against *Archiptolome*,
Antiphon, and his consorts in Athence in the forme that followeth. The 16 day of *Pry-*
tance, *Demonicus Dalopere* being Register, and *Philostratus* Captaine, at the pursuite of
Andron touching *Archiptolemus*, *Onomaches*, and *Antiphon*, whome the Captaine
 hath accused that they went to Lacedemon to the preiudice of the Commonweale,
 and that they departed from the Camp in one of the enemies ships; the Senat hath de-
 creed, That they should be apprehended, and that the Captaine with ten Senators **G**
 named by the Senat, should determine of them, to the end they might be punished, that
 the Thesmothetes should call them the next day, and bring them before the Iudges,
 and that the Captaine or any other might accuse them, to the end that iudgement be-
 ing giuen, execution might follow, according to the lawes made against traitors. And
 vnder the decree the sentence is set downe in this sort, *Archiptolemus* and *Antiphon*
 were condemned and deliuered into the hands of eleuen executioners of iustice, their
 goods forfeited, and the tenth reserued vnto the goddesse *Minerua*, and their houses
 razed: afterwards they did adiudge all vnto the publike treasor, and yet the law did al-
 low the Iudges to dispose in their sentence as they should thinke the cause deserued for
 publike or charitable vses, as we haue a commendable custome in this realme. That
 which I haue said of successions should principallie take place, when as there is any **H**
 question of lands holden in fee, for the prerogatiue and qualitie of the fee, affected to
 the ancient families for the seruice of the Commonweal. Wherin the Germanis haue
 well provided, for in all confiscations the next of kin are preferred before the publike
 treasurie when there is any question of land in fee; wherby flatterers haue no means to
 accuse wrongfully, nor Princes to put good men to death for their fees: which seemes
 to haue been the reason that by the lawes of God the amercement was consecrated
 vnto God, and giuen to the high Priests, if he that had offended were not in presence,
 or had no heires. And for that this Chapter concernes rewards and punishments, order
 requires that we discourse of the one and the other.

The law of A-
 thens in cases
 of treason.

The law of Ger-
 manie for con-
 fiscations.

CHAP. IIII.

Of reward and punishment.



Tis needfull to treat here briefly of rewards and punishments,
 for he that would discourse thereof at large should make a great
 volume, for that these two points concerne all Commonweales,
 so as if punishments and rewards be well and wisely distributed,
 the Commonweale shall be alwaies happie and flourish, and con-
 trariwise if the good be not rewarded and the bad punished ac-
 cording to their deserts, there is no hope that a Commonweale
 can long continue. There is not any thing that hath bred greater troubles, seditions, **K**
 ciuill warres, and ruines of Commonweales than the contempt of good men, and the
 libertie which is giuen to the wicked to offend with all impunitie. It is not so necessa-
 ric to discourse of punishments, as of rewards, for that all lawes and bookes of lawyers
 are full of them, but I find not any one that hath written of rewards: either for that
 good men are so rare, and wicked men abound; or for that it seemes more profitable
 for a Commonweale to restraine the wicked with the feare of punishment, than to in-
 courage the good to vertue with rewards. But for that punishmētts are odious of them-
 selues,

The two princi-
 pall foundations
 of euery Com-
 monweale.

A selues, and rewards fauourable, therefore wise Princes haue accustomed to referre punishments vnto the Magistrate, and to reserue rewards vnto themselues, to get the loue of the subiects, and to flie their hatred: for which cause Lawyers and Magistrates haue treated ampie of punishments, and but few haue made any mention of rewards. And although the word merit is taken in the best sence, as *Seneca* saith, *Altius iniurie quam merita descendunt*, Iniuries make a deeper impression than merits, yet we will vse it indifferently and according vnto the vulgar phrase. Euery reward is either honorable, or profitable, or both together, else it is no reward, speaking popularly and politikely, seeing we are in the middest of a Commonweale, and not in the schooles of the Academies and Stoikes, which hold nothing to be profitable that is not honest; nor honorable which is not profitable: the which is a goodly paradoxe, and yet contrarie to the rules of policie, which doe neuer ballance profit with the counterpoise of honour: for the more profit rewards haue in them, the lesse honourable are they, and alwayes the profit doth diminish the beautie and dignitie of the honour. And euen those are most esteemed and honoured, wherein they imploy their goods to maintaine the honour. So as when we speake of rewards, we vnderstand triumphes, statues, honourable charges, estates, and offices, which are therefore called honors: for that many times the priuat estates of famous men are wasted thereby: the rest haue more profit than honour in them, as benefices, militarie gifts, immunities of all or some charges; as of taxes, imposts, wardship, exemptions from the warre; and from ordinarie judges, letters of estate, of freedome, of legitimation, of fauours, of gentrie, of knighthood, and such like. But if the office be hurtfull, and without honour, it is no longer a reward, but a charge or burthen. Neither may wee confound a reward and a benefit; for a reward is giuen vpon good desert, and a benefit vpon speciall fauour. And as Commonweals be diuers, so the distribution of honours and rewards is verie different in a Monarchie, and in the other two estates. In a Popular estate rewards are more honourable than profitable: for the common people hunt only after profit, caring little for honour, the which they doe willingly giue to them that are ambitious. But in a Monarchie the prince is more iealous of honour than of profit, especially if he be a tyrant, who takes nothing more disdainfully, than to see his subiect honoured and respected; fearing least the sweet inticing bait of honour, should make him aspire and attempt against his estate: or els for that a tirant cannot endure the light of vertue: as we read of the emperor *Caligula*, who was iealous and enuious of the honor that was done to God himself: and the emperor *Domitian*, who was the most base and cowardly tyrant that euer was, yet could hee neuer endure that any honour should be done vnto them that had best deserued, but hee put them to death. Sometimes princes in stead of recompencing of worthy men, they put them to death, banish them, or condemne them to perpetuall prison, for the safetie of their estates. So did *Alexander* the Great to *Parmenio* his constable, *Iustinian* to *Belisarius*, *Edward* the fourth to the earle of *Warwike*; and infinit others, who for the reward of their prowesse haue bene slaine, poisoned, or ill intreated by their princes. And for this cause, as *Tacitus* writes, the Germans did attribut all the honour of their goodly exploits vnto their princes, to free themselues from enuie which followes vertue. And therefore we neuer see Monarches, & much lesse tyrants, to graunt triumphes and honourable entries vnto his subiects, what victorie soeuer they haue gotten of the enemy. But contrariwise a discreet captaine, in stead of a triumph at his returne from victorie, humbling himselfe before his prince, he saith, Sir, your victorie is my glorie, although the prince were not present: for hee that commands deserues the honour of the victorie, euen in a Popular estate: as it was adiudged betwixt the Consull *Lutatus* and *Valerius* his lieutenant, vpon a controuersie they had for the triumph, the which

Difference of rewards.

Difference of reward and benefit

The difference of giuing rewards in a Popular estate and a Monarchy.

A tyrant cannot endure to haue the subiect honoured.

The honour of the souldiers victorie is due vnto the captaine.

Valerius

Why Popular
estates haue
more famous
men than Mo-
narchies.

Preferments to
honour breeds
men of desert.

The description
of a triumph at
Rome.

The honours gi-
uen at Athens.

Valerius pretended to be due vnto him, for that the Consull was absent the day of the battell. So we may say, that the honour of the victorie is alwayes due vnto the prince, although he be absent the day of the battell: as *Charles* the fift, king of France was, who gaue his armes vnto one of his gentlemen, and retired himselfe out of the fight, fearing to fall into his enemies hands: And for this cause he was called wise, remembring how prejudiciall his fathers captiuitie was vnto Fraunce. The like we may say of Popular estates, that the generals victories belong vnto the people vnder whose ensignes they haue fought, but the honor of the triumph is giuen vnto the Generall: the which is not obserued in a Monarchy. Which is the chiefe, and it may be the onely occasion, why in Popular estates well gouerned, there are more vertuous men than in a Monarchy: For that honor which is the onely reward of vertue is taken away, or at the least much restrained from them that deserue it in a Monarchy, and is graunted in a lawfull Popular estate, euen in matters of armes. For as a generous and noble minded man doth more esteeme honour than all the treasure of the world; so without doubt he will willingly sacrifice his life and goods for the glorie he expects: and the greater the honours be, the more men there will be of merit and fame. And therefore the Commonweale of Rome hath had more great Captaines, wise Senators, eloquent Orators, and learned Lawyers, than any other Commonweale, either Barbarians, Greeks, or Latines: For he that had put to rout a legion of the enemies, it was at his choice to demand the triumph, or at the least some honourable charge; one of the which could not bee denied him. As for the triumph, which was the highest point of honour a Roman citizen could aspire vnto, there were no people vnder heaven where it was solemnised with more state and pompe than at Rome: For he that triumphed, made his entrie more honourable than a king could doe in his realme, dragging the captiue kings & commaunders in chaines after his chariot, hee sitting on high attired with a purple robe wrought with gold, and a crowne of baies, accompanied with his victorious armie, being braue with the spoyles of their enemies, with a sound of trumpets and clarens, rauishing the hearts of all men, partly with incredible ioy, and partly with amazement & admiration: and in this manner the Generall went vp to the Capitoll to doe sacrifice. About all (saith *Polybius*) that which did most inflame the youth to aspire to honour, were the triumphall statues or images liuely drawne of his parents and predecessors, to accompnie him to the Capitoll. And after he had done the solemn sacrifice, hee was conducted home to his house by the greatest noble men and captaines. And those which died were publikely prayed before the people, according vnto the merits of their forepassed liues. And not onely the men, but also the women, as we read in *Titus Linius*, *Matronis honor additus, vt eorum sicut virorum solemnibus laudatio esset*, There was honour giuen vnto matrons, that there might bee a solemn commendation of them as of men. I know there are preachers which will say, That this desire of honour is vaine, which euery good man should flie: but I hold that there is nothing more necessarie for youth (as *Theophrastus* said) the which doth enflame them with an honest ambition; who when as they see themselves commended, then do vertues spring and take deeper root in them. And *Thomas Aquinas* saith, That a prince must bee nourished with the desire of true glorie, to giue him the taste of vertue. We haue no reason then to maruell, if neuer any Commonweale did bring forth such famous men, and so many, as Rome did: For the honours which were graunted in other Commonweals, came nor neere vnto them which were giuen in Rome. It was a great reward of honour at Athens, and in the Olympike games, to be crowned with a crowne of gold in the open theatre before all the people, and commended by an Orator; or to obtaine a statue of brasse, or to be enterrained of the publike charge, or to be the first, or of the first

- A first rank in places of honors, for himselfe & his house; the which *Demochares* required of the people for *Demosthenes*, after that he had made a repetition of his prayes, wherein there was no lesse profit than honour. But the Romans (to giue them to vnderstand that they must not esteeme honour by profit) had no crowne in greater estimation, than that of grasse or greene corne, the which they held more pretious than all the crownes of gold of other nations. Neither was it euer giuen to any, but to *Q. Fabius Maximus*, surnamed *Cunctator*, with this title, *Patrie seruatori*, To the preseruer of his countrey. Wherein the wisdome of the auntient Romans is greatly to be commended, hauing thereby banished couetousnesse and the desire of gainefull rewards; and planted the loue of vertue in the subiects hearts, with the price of honour. And whereas
- B other princes are greatly troubled to find money, to emptie their coffers, to sell their reuenewes, to oppresse their subiects, to forfeit some, and to spoile others, to recompence their slaues and flatterers (although that vertue cannot bee valued by any price) the Romans gaue nothing but honours, for that the captaines respected nothing lesse than profit: and euen a priuat Roman souldiour refused a chaine of gold of *Labiennus* lieutenant to *Cesar*, for that he had hazarded his life couragiously against the enemy, saying, That he would not the reward of the couetous, but of the vertuous; the which is honour, that we must haue alwayes before our eyes. But vertue must not follow, but goe before honour: as it was decreed by the auntient high Priests at Rome, when as Consull *Marcus Marcellus* had built a temple to Honour and Vertue; to the end the
- C vows and sacrifices of the one should not be confounded with the other, they resolved to make a wall to diuide the temple in two, but yet so, as they must passe thorow the temple of Vertue, to enter into that of Honour. And to speake truely, the auntient Romans onely did vnderstand the merits of vertue, and the true points of honour. For although the Senator *Agrippa* left not wherewithall to defray his funerall, nor the Consull *Fabricius* nor the Dictator *Cincinnatus* wherewithall to feed their families, yet the one was drawne from the plough to the Dictatorship, and the other refused halfe the kingdomes of *Pyrrhus*, to maintaine his reputation and honour. The Commonweale was neuer so furnished with worthy men, as in those dayes, neither were honours and dignities better distributed than in that age. But when as this pretious reward of vertue was imparted to the vicious and vnworthy, it grew contemptible, so as euery one scorned it, and held it dishonourable: as it happened of the gold rings which all the gentlemen of Rome neglected, seeing *Flavius* a libertine to *Appius* and a popular man, created *Ædile*, or chiefe ouerseer of the victuals; the which they were not accustomed to giue to any but gentlemen, although he had deserued well of the people. And the which is most to be feared, good men will abandon the place wholly to the wicked, for that they will haue no communication nor fellowship with them: as *Cato* the younger did, who being chosen by lot with diuers other judges to iudge *Gabinus*, and seeing that they pretended to absolue him, beeing corrupted with gifts, hee retired himselfe before the people, and brake the tables that were offered vnto him. So did the
- E chaste women in this realme, who cast away their girdles of gold, the which none might weare that had stained their honours, who notwithstanding did weare girdles, & then they said, *Que bonne renommee valoit mieux que ceinture d'or*, That a good name was better than a golden girdle. For alwaies vertuous men haue impatiently endured to bee equalled with the wicked in the reward of honour. Haue wee not seene that the onely meanes that king *Charles* the seuenth found to make a number of vnworthy men, who had gotten the order of knights of the Starre, by women or fauour, to leaue it, he decreed, That the archers of the watch at Paris, should weare a star vpon their cassockes, which was the marke of Saint *Owen*: whereuppon all the knights of this

The Romans esteemed honour more than profit.

A worthy saying of a souldior.

The vertuous refuse honours when they are giuen to the vnworthy.

The naturall order of honour and vertue.

this disorder left the starre. As in like case the people of Athens disanulled the law of Ostracisme, by the which the best men were banished their countrey for three yeares, when as *Hyperbolus* one of the worst and wickedest men of Athens had bene condemned by that law. F

It is a daungerous and very pernicious thing in euery Commonweale, to grant honours and rewards without any difference, or to sell them for money; although that they which thinke to win honour in buying their offices, abuse themselves as much as those which thought to flie with the golden wings of *Euripides*, making that which should be the lightest of all others, of the heauiest mettall: for then the precious treasure of honour turnes to dishonour; and honour being once lost, then do they exceed in all vice and wickednesse: the which shall neuer happen if the distribution of rewards and punishments be ordered by a harmoniacall iustice, as wee will shew in the end of this worke. If a Consull be allowed a triumph, it is reason that captains and lieutenants should haue the estates and offices, the horsemen the crowns and horses, and the priuat souldiers also should haue part of the arms & spoils. And in the bestowing of offices they must also haue a respect vnto the qualitie of persons: to Gentlemen the offices of Consull, and Gouvernements; to the Plebeians the Tribunes places, and other meane offices fit for their qualities and merits: and if the vertue of a meane man or of a priuate souldier be so great that hee exceeds all others, it is reason that he haue his part in the greatest dignities, as it was decreed by the law *Canuleia*, to appease the seditions betwixt the nobilitie of Rome and the people: but he that would make a Consull, a knight of the Order, or a master of the horse, of a base fellow that had neuer caried arms, without doubt he should blemish the dignitie of rewards, and put the whole estate in danger of ruine. In old time there was more difficultie to create a simple Knight, than is now to make a Generall: they must haue deserued well, and prepare themselves for it with great solemnitie. And euen Kings children and Princes of the bloud were not admitted to be Knights but with great ceremonies: as we may reade of Saint *Lewis*, when he made his sonne *Philip* the 3. Knight, who afterwards created *Philip* the faire Knight in the yeare 1284 and he his three children in the presence of all his Princes: and which is more, king *Francis* the first after the battaile of Marignan caused himselfe to be dubbed knight by Captaine *Bayard*, taking his sword from him. But since that cowards and housedoues caried away this price of honor, true knights neuer esteemed it: so as *Charles* the sixt at the siege of Bourges made aboue fve hundred knights banerets, & many other knights, which had not power to raise a banner, as *Monstrelet* said. In like sort that militarie girdle which the Roman Emperours did vse to giue as a reward of honor to them that had deserued well of the Commonweale; as the collar of the order, the which they tooke away in reproch, as *Iulian* the Emperour did from *Iouinian* and other christian Captaines; and the honor of a Patrician, the which the Emperours of the East did esteeme as the highest point of honor and fauour: in the beginning it was not giuen but vnto the greatest Princes and noble men. As we read that the Emperour *Anastasius* sent the order of a Patrician to king *Clouis* in the citie of Tours, but after that it was imparted to men of base condition and vnworthie of that honor, it grew contemptible, so as Princes haue bin of necessitie glad to forge new honors, new prizes, and new rewards. As *Edward* the third king of England made the order of Saint *George*, or of the Garter: and soone after the 6 of Ianuary 1351 king *Ihon* did institute the order of the Starre in the Castell of Saint Owen: and long after that *Philip* the second duke of Burgogne erected the order of the golden Fleece: and 40 yeres after him *Lewis* the 11 king of France made the order of Saint *Michaell*; as also after him the dukes of Sauoy haue instituted the order of the *Anonciado*, and other Princes haue done G
H
I
K

The reward of honour turnes to infamie, if it be giuen to the vnworthy.

Harmoniacall proportion in the distribution of rewards.

The estimation of honours in old times.

The orders of England, France, and Bourgogne

A done the like, to honor with the title of Knighthood those that deserued well, whose seruices they cannot otherwise reward. By the first article of the golden Fleece, the which was instituted the tenth of Ianuary 1429 no man might be Knight of that order, vnlesse he were a Gentleman of name and armes, and without reproch: by the second, he might not carrie any other order of what Prince soeuer, but with the priuite & consent of the chiefe of the order: the seuenth article wils, That all personall quarrels and dissentions of Knights among themselves shall be decided by Iudges of the order, the which is a bodie and Colledge, with a Chancellor, Treasurer, King at armes, Register, a priuat Seale of the order, and soueraigne iurisdiction, without appeale or ciuill request. *Lewis* the 11 imitating the example of *Philip* Duke of Bourgogne, who had entertained him in the time of his disgrace with his father, instituting the order of Saint *Michell* into a Colledge, the first day of August in the yeare 1469 he set downe those articles whereof I haue made mention, and all other articles specified in the institution of the Fleece: and besides in the 37 article it is said, That when any assemblie shall be made, the life and conuersation of euery Knight shall be examined one after an other, during which examination they shall depart out of the Chapter, and be called againe to heare the admonitions and censures of the Chancellor of the order: and in the 38 article it is said, That an examination and censure shall be made of the soueraigne and head of the order, which is the King, as of the rest to be punished and corrected, according to the aduice of the brethren of the order, if he hath committed any thing against the honor, estate, and dutie of Knighthood, or against the statutes of the order: and in the 42 article it is decreed, That any Knights place being voyd, the Chapter shall proceed to a new election, and the Soueraignes voice shall stand but for two: and both he and all the Knights of the order shall be bound to take a solemne oth at their entrie into the Chapter, to chuse the worthiest that they know, without respect to hatred, friendship, fauour, blond, or any other occasion, which might diuert them from the right: which oth shall be made in the Soueraignes hands from the first vnto the last: and in the last article there is an expresse clause, That neither the King nor his successors, nor the chapter of the order may not derogate from the articles of the institution. Behold briefly the institution of the order and Colledge of honor, the goodliest and the most royall that euer was in any Commonweale, to draw, yea to force mens minds vnto vertue. It may be some one will say, that the first institution of 31 Knights in the order of the golden Fleece, of 36 in the order of France, and of 24 in the order of the Garter instituted at Windsor, cuts off the way to vertue, for that it is expressly defended in the last article of the ordinances of *Lewis* the 11 not to increase that number, although the Soueraigne Prince and the whole Chapter were so resolved; but in my opinion it is one of the chiefeft articles that ought to haue bene duliie obserued: to auoid the inconueniences which we haue seene by the infinite number of the order of Saint *Michell*, for the number is sufficient to receiue them that shall deserue that honor: and the fewer there are, the more it will be desired of all men: as at a prize, the which is the more greedily desired, for that euery man hopes for it, and few carrie it. And in this number soueraigne Princes are not comprehended, to whom they present the order only for honor, for that they cannot be tyed to the lawes of the order, and retaine the rights and prerogatives of soueraigntie. And although the number were small, yet were there but foureteene Knightes at the first institution of the order, the which are named in the ordinance: and in the time of King *Francis* the first the number was neuer full. So it is most certaine, that there is nothing that doth more blemish the greatnes of the honor, than to impart it to so many And for this cause many seeing the smal account was held of the order, procured to haue their Seigneuries erected into Earledomes, Marquisats,

The law of the
Golden Fleece.

The law of the
order of Saint
Michael.

The excessive
number of
Knights of the
order, haue rui-
ned the order.

and Duchies, which number hath so increased in a short time, as the multitude hath bred contempt, so as *Charles* the ninth enacted by an edict, That after that time all Duchies, Marquisats and Counties should be vnted vnto the Crowne, if the Dukes, Marquises and Earles dyed without heires males issued of their bodies, although the said Seigneuries had not in former times belonged vnto the Crowne: the which is a verie necessitie Edict to restrain the insatiable ambition of such as had not deserved these titles of honor, whereof the Prince should be ialous. And generally in all gifts, rewards, and titles of honor it is expedient (for the greater grace of the benefit) that he only which holds the Soueraigntie should bestow it on him that hath deserved; who will thinke himselfe much more honored, when his Prince hath giuen him his reward, seene him, heard him, and graced him. Also the Prince aboue all things must be ialous that the thanks of his bountie may remaine, banishing from his court those sellers of smoke, or punishing them as *Alexander Seuerus* did, who caused one to be tyed vnto a post, as *Spartian* saith, and smothered him with smoke, causing it to be proclaimed by the trompet, So perish all such as sell smoke. He was fauored by the Emperour, who as soone as he knew the name of any one whom the Emperour meant to grace either with honor or office, he went vnto him, promising him his fauour, the which he sold at a high rate, and like a horseleech of the Court he sucked the blood of the subiects to the dishonor of his Prince, who should hold nothing more deere than the thanks of his gifts and bountie; else if he endure that his household seruants steale away the fauours of his subiects, it is to be feared that in the end they will make themselves masters, as *Abolon* did, who shewing himselfe affable and courteous to all the subiects, abusing the charges of honor, offices, and benefices, giuing them vnder the fauour of the King his father to whom he pleased; he stole from him (saith the scripture) his subiects hearts, and expelled him from his royall throne. We read also of *Otho*, who hauing receiued 2500 crownes for a dispensation which the Emperour *Galba* gaue at his request, he gaue them among the Captaines of the guards, the which was a chiefe meanes for him to vsurp the State, after that he had caused *Galba* to be slaine. This gift was like vnto the Eagle which the Emperour *Iulian* caried in his Standard, the which pulled off her owne feathers, whereof they made arrowes to shoot at her. For the same occasion the last kings issued from *Merouc* and *Charlemaigne* were expelled from their estates by the Maiors of the pallace, who gaue all offices and benefices to whom they pleased without the kings priuie or consent: and therefore *Loup* Abbot of Ferrieres did write vnto *Charles* the 3 king of France, aduising him to haue a speciall care that his flatterers and courtiers did not steale from him the thanks of his liberalitie. Some will say, that it is impossible for a Prince to refuse his mother, brethren, children, and friends: I must confesse it is a hard matter to auoid it, yet I haue seene a King who being importuned by his brother for another, said vnto him in the presence of the tutor, Brother, at this time I will do nothing for your sake, but for the loue of this man who hath deserved well, to whom he graciously granted what his brother had demanded. But if the Prince will wholie yeeld himselfe to the appetite of his followers, we may well say that he is but a cipher, which giues all power vnto others, & reserues nothing to himselfe: he must therefore know which be good and vertuous men, and that haue well deserved. And least the Prince should be forced to denie many importunate beggars, he must make choise of wise and faithfull masters of requests, to receiue euery mans petition, who may dissuade such as demaund any thing that is vniust or against the good of the State, or at the least they must acquaint the Prince therewith that he may not be surprisid in his answer: By this meanes importunate beggars shall be kept backe by good men, neither shall they haue any cause to bee discontented with the Prince,

Sellers of smoke
dangerous to an
estate.

It is the ruine of
princes to giue
too great autho-
ritie to his sub-
iects.

Charles the
ninth to Henry.

A Prince, who they will thinke vnderstands not thereof, or else he will satisfie them with pertinent reasons, wherein the Emperour *Titus* is greatly commended, for that he neuer sent away any man discontented, whether he granted or refused what he demanded, and therefore they called him, The delight of mankind. Moreouer an impudent begger knowing that his petition shall be viewed, red and examined by a wise Chancellor, or an vnderstanding master of requests will not presume to pursue a thing that is vniust; for Princes neuer want flatterers and impudent beggers, the which haue no other end but to drinke the bloud, eate the boanes, & suck the marrow both of Prince and subiect: and those which haue best deserued of the Commonweale, are commonly most kept back, not only for that their honor forbids them to flatter, and to beg the reward of vertue, which should be offred vnto them: but also for the charges and expences of the pursuite, and many times without all hope. And if their petitions be once reiected, they will not make a second attempt, no more then *Callicratidas* a Lacedemonian Captaine (one of the most vertuous of his age) who was mockt of the Courtiers of yong *Cyrus*, for that he had not the patience to court it long: and contrariwise *Lisander* a flattering courtier, if euer any were, obtained whatsoeuer he demanded. *Plut. in Lisand.*

B A modest and bashfull man is amazed in this case, where as the impudent preuaile, knowing well the humor of Princes, who alwaies loue them to whom they haue done most good, and the most part hate them to whom they are most bound: and to say the truth, the nature of a benefit is such, as it doth no lesse bind him that giues, than him that receives it: and contrariwise thanks and the acknowledging of a benefit is troublesome to an ingratefull person, and reuenge is sweet, wherof *Tacitus* giues the reason; saying, *Promiores ad vindictam sumus quam ad gratiam, quia gratia oneri, ultio in questu habetur*: We are more prone to reuenge then to giue thanks, for thanks is held a burthen, and reuenge a gain. And although that many Princes neither pay, nor giue anything but words, yet the least promise that is made vnto them they hold as a firme bond. There is yet an other point which hinders and cuts off the rewards of good men, which is, that if a wise Prince bestowes any office, priuiledge, or gift to whom soeuer, before he can enioy it, he must giue the one halfe in rewards: and oftentimes their promises are sold so deere, as they carrie away little or nothing at all, the which is an incurable disease but by seuerer and rigorous punishments, for the which they must of necessitie prouide, seeing that punishments and rewards are the two firme supports of a Commonweale. The best meanes to pteuent it is for the Prince to cause the gift to be brought and deliuered, and if it were possible to be present thereat himselfe, specially if it be to a man of worth: for the gift comming in this sort from the Princes own hand, hath more efficacie and grace, then a hundred times as much giuen him by an other repiningly, or curtalled for the most part. The like censure is to be made of praise or commendations, which the Prince deliuers with his owne mouth to him that hath deserued it, the which hath more effect then all the wealth that he can giue him: and a reproch or blame is as a stabbe vnto generous minds to force them to do well. But it is impossible euer to see a iust distribution of punishments and rewards, so long as Princes shall set to sale dignities, honors, offices, and benefices, the which is the most dangerous and pernicious plague in a Commonweale. All nations haue prouided for it by good and wholesome lawes; and euen in this realme the ordinance of *S. Lewis* notes them with infamie that haue vsed the fauour of any man to procure them offices of iustice, the which was reasonable well executed vntill the raigne of king *Francis* the first, and in England it is yet rigorously obserued, as I haue vnderstood by *M. Randall* the english Ambassador; the which was also strictly decreed by an edict of *Ferdinand*, great Grandfather by the mothers side to *Philip*, made in the yeare 1492 where as the

Tranquil in Titus.

Why good and vertuous men want rewards.

Plut. in Lisand.

Why we are more prone to reuenge than to requite.

Punishments & rewards, the two supports of a Commonweale.

The sale of offices and benefices most dangerous in a Commonweale.

forme of choosling of offices of iustice is set downe: *Que no se puedan vender, ny trocar. F*
officios de Alcaldia, ny Alquaçiladgo, ny regimiento, ny veyntes quatria, ny fiel executoria,
ny iuraderia. It is not needfull to set down the inconueniences & miseries that a Com-
monweale is subiect vnto by the sale of offices, the labour were infinite being so well
knowne to all men. But it is more difficult in a popular State to perswade them that
this trafficke is good, then where as the richest men hold the Soueraignetic. it is the
onely meanes to exclude the poorer sort from offices; who in a popular estate will
haue their parts without paying any money, and yet hardly shall they obserue these
prohibitions, when as the common people shall reape some benefit by choosling of
ambitious men. As for a Monarke, pouertie sometimes forceth him to breake good
lawes to supplie his wants, but after they haue once made a breach, it is impossible to
repaire it. It was forbidden by the law *Petilia* to go to sayers and assemblies, to sue for
the peoples fauour & voyces. By the law *Papiria* no man might weare a white gowne.
The law *Calphurnia* declared him incapable for euer to beare any office that had been
condemned of ambition, vnlesse he had accused and conuicted an other, and he that
had caused his competitor to be condemned of ambition, he obtained his office; after-
wards punishment was made greater by the law *Tullia*, published at the request of *Ci-*
cero, whereby it was decreed that a Senator condemned of ambition should be bani-
shed for ten yeares, but it was not obserued by the rich, who sent their broakers into
the assemblie of the States with great sommes of money to corrupt the people, so as
Caesar fearing to haue one ioyned with him in the Consulship that might crosse his
designes, he offred his friend *Luceius* as much money as was needfull to purchase the
peoples voyces: whereof the Senat being aduertised, they appointed a great somme of
money for his competitor *Marcus Bibulus* to buy the peoples suffrages, as *Suetonius*
doth testifie. This was vpon the declining of the popular estate, the which was ouer-
throwne by this meanes; for vndoubtedly they which make sale of estates, offices, and
benefices, they sell the most sacred thing in the world which is Iustice, they sell the
Commonweale, they sell the bloud of the subiects, they sell the lawes, and taking a-
way all the rewards of honor, vertue, learning, pietie, and religion, they open the gates
to thefts, corruption, couetousnes, iniustice, arrogancie, impietie, and to be short, to all
vice and villanie. Neither must the Prince excuse himselfe by his pouertie, for there is
no available excuse, or that hath any colour to seeke the ruine of an estate, vnder a
pretence of pouertie. And it is a ridiculous thing for a Prince to pretend pouertie, see-
ing he hath so many meanes to preuent it if he please. We reade that the Empire of
Rome was neuer more poore and indebted then vnder the Emperour *Heliogabalus*
that monster of nature, and yet *Alexander Seuerus* his successor, one of the wisest and
most vertuous Princeesse that euer was would neuer indure the sale of offices, saying in
the open Senat, *Non patiar mercatores potestatum*, I will not indure these marchants, or
buyers of dignities: and yet this good Emperour did so abate the taxes and imposts, as
he that paid one and thirtie crownes vnder *Heliogabalus*, paid but one crowne vnder
Alexander, resoluing, if he had liued, to take but the third part of it, but he reigned but
fourteene yeares after that he had freed his predecessors debts, and defeated the Par-
thians and the people of the north, leauing to his successor an Empire flourishing in
armes and lawes. But his court was wisely ordred, excessiue prodigalities were cut off,
rewards were equallie distributed, & the theeuers of the publike treasure were seuerely
punished. He was called *Seuerus*, by reason of his seueritie. He hated flatterers as a
plague to all Princes, neither durst the horseleeches of the court come neere him. He
was very wise in all things, but especially in the discouering of mens humors, and of a
great iudgement in decerning of euery mans merits; being reuerent with a seuer kind
of

Sale of offices
least vsed in a
popular estate.

The inconueni-
ences which
grow by the
sale of offices.

Pouertie no law-
full excuse in a
prince for the
sale of offices.

A worthy saying
of an emperour.

The disposition
of the emperour
Seuerus.

A of maiestie. We haue shewed before, that the softnes or simplicitie of a Prince is dangerous to an estate. After that the great king *Francis* the first became (through his old age) austere and not so accessible, the flatterers and horseleeches of the court came not neere him, so as the treasure was so well husbanded, as after his death they found seuen-teene hundred thousand crownes in readie money, besides the quarter of March which was readie to be receiued: and his realme full of learned men, great Capitaines, good Architects, and all sorts of handicrafts, and the frontiers of his estate extending euen vnto the gates of Milan, being assured by a firme peace with all Princes. And although that he had been encountred with great and mightie enemies, and had been taken prisoner and paid his ransome, yet did he build Cities, Townes, Castles, and stately Pallaces:

The good husbandry of king Francis the first.

B but the facilitie and too great bountie of his successor *Henry* the second brought the estate indebted within little more than twelue yeares after, foure millions three hundred fortie eight thousand three hundred nintie three pounds eightene shillings starling (as I learned out of the accounts) and the countries of Sauoy and Piedmont, with all that which they had conquered in thirtie yeares before, lost, and the rest much ingaged. I omit to speake how much France was salne from her antient dignitie and beautie, how worthe men were kept from their degrees, vertuous men troden vnder foote, and the learned contemned: and all these miseries came vpon the realme, for that he did prodigallie giue dignities, offices, benefices, and the treasure to the vnworthie, and suffered the wicked with all impunitie. That Prince then that will enioy a happie

The prodigality of king Henrie the second.

C estate let him refer the punishment of offences to the Magistrate, as it is expedient; and reserue rewards vnto himselfe, giuing by little and little according to euery ones merit; that the thanks may be the more durable; and commaund punishments to be done at an instant, to the end they may be the lesse grieuous to them that suffer them, and the feare deeper grauen in the harts of others, terrifying them from their wicked and disordred liues. These lawes of punishments and rewards being duly obserued in a Commonwealth, vertue shall be alwaies honorablie rewarded, the wicked shall be banished, publick debts shall be paid, and the State shall flourish with all abundance. But for that the frauds of courtiers are so many, and such infinit deuises to rob the treasure, so as the wisest Princes may be circumuiented, a law was made by *Philip* of Valois, and verified in the court of Parliament, and chamber of accounts, whereby it was enacted, That all gifts giuen by the king should be void, if his letters pattents did not containe whatsoeuer had been giuen to him or to any of his predecessors in former times by the Princes bountie: which law although it were most profitable, yet was it abrogated two yeares after by their meanes that were interestted, finding how much it did preiudice them, so as it was enacted that it should bee sufficient to haue the derogatorie annexed to their pattents, as I haue seene in the antient registers of the court: but that also was taken away, least any remembrance of benefits should hinder the Princes bountie.

The cause of the calamities of France.

D There was another law made by *Charles* the 8. whereby all gifts aboue ten pounds starling should be enrolled: but since they haue vted so much fraud, as one in this realm was not ashamed to bragge in a gear assembly, That he had gotten (besides his offices) fise thousand pounds starling a yeate of good rent, and yet there was not any one gift made vnto him to be found in all the registers of the chamber, although it were apparant that he had nothing but from the king. We must not therefore wonder at great debts, seeing the treasure is exhausted after so strange a manner, as hee that hath most receiued, makes a shew to haue had nothing. For to giue so much to one man, although he deserue well, doth not onely waste the treasure of the Commonwealth, but also stirre vp the discontented to seditions and rebellions. And one of the best meanes to preserue

In the yeare 1333. 11. May.

E In what sort the prince should giue.

an estate in her greatnesse, is to bestow gifts and rewards on many, to continue cuetie one in his dutie, and that they may ballance one another. Also an aduised prince must giue sparingly to the importunat, and offer to them that beg not, so as they bee of good desert, for some can neuer aske, nor yet take it when it is offered them. As *Antigonus* king of Asia said, That he had two friends, whereof the one could neuer be satisfied, & the other could neuer be forced to take any thing. To such men *Dionisius* the elder, lord of Siracusa, behaued himselfe wisely, For to vs (said *Aristippus*) which demaund much he giues little, and to *Plato* who craues nothing, he giues too much. This was a safe kind of giuing, retaining both the money and the thanks. Yet princes haue many other means to grace and reward a seruant, than with mony, the which is lesse esteemed by men of honour, than a good looke, an alliance, a marriage, or a gracious remembrance. And sometimes the gift is such, as it brings more profit to him that giues it, than to him that receiues it. *Charles* the fift, emperour, being come into Spaine, to requite the well deseruing of the duke of Calabria (who had refused the crowne and kingdome of Spaine, which was offered vnto him by the estates) being then a prisoner, he freed him out of prison, and married him to one of the richest princesses that was then liuing, widow to king *Ferdinand*: with the which deed the people receiued great content, the duke great honour, wealth, and libertie, and the emperour the loue of the duke, the loue of the people, and the assurance of his estate, without any charge: And moreover by this meanes hee kept the widow from marrying with any forren prince: giuing to the duke a wife that was aged and barren, to the end that the dukes line (which made a pretence to the realme of Naples) should be extinct with him.

It is a principal point which a prince ought to respect, That his bountie and rewards be giuen with a cheerfull heart: for some are so vnpleasing, as they neuer giue any thing without reproach, the which taketh away the grace of the gift, especially if the gift be instead of a reward or recompence. But they do much worse, which giue one & the same office, or one confiscation to many, without aduertising either the one or the other: the which is no benefit, but an iniurie. This is to cast the golden apple among subiects to ruine them. And oftentimes we see them consumed with suits, and murder one another with the sword: whereby the prince shall not onely loose the fruits of his bountie, but the loue of his subiects, and reape for thanks eternall hatred. The which is a grosse errour in matters of state, and yet vsuall among princes; not so much through forgetfulness of that which is past, but of set purpose, being falsly instructed from their youth, That they must be liberall and refuse no man, thereby to win the hearts of all men: and yet the end is quite contrarie to that which they haue propounded, giuing one thing to many. And to refuse no man, is not to be liberall nor wise, but prodigall and indiscreet. I would not onely haue the prince liberall, but bountifull, so as he proue not prodigall: for from a prodigall he will grow to be an exactor, and of an exactor a tyrant: and after that he hath giuen his owne, he must of force pull from others to giue. The laws of liberallitie commaund, That he should obserue well to whome he giues, what hee giues, at what time, in what place, and to what end, and his owne abilitie that giues. But a so-ueraigne prince must withall remember, that rewards must goe before gifts, and that he must first recompence them that haue well deserued, before he giue to such as haue nothing deserued; and aboue all, let him measure his bountie according to his abilitie. The Romans to releue the pouertie of *Horatius Cocles* (who alone had withstood the enemies armie, and saued the citie from sacking, and the citisens from ruine) they gaue him an acre of land, or little more; the which was much at that time, hauing but two leagues compasse about the citie. But *Alexander* the Great gaue kingdomes and empires, and thousands of talents: if he had done otherwise it had bene against his mai-

A safe kind of giuing.

An excellent policie of the emperor Charles the fift.

It is pernicious to giue one thing to many.

The law of libertie.

stie

A stie and greatnesse . *Alphonſus* the fift, king of Castile, gaue the kingdome of Portugall to *Henrie* of Boulogne of the house of Loraine , from whome are issued the kings of Portugall for these fūe hundred and fiftie yeares : it was for a reward of his vertue, marrying him to his bastard daughter . But yet was he blamed, to haue giuen away so goodly an estate, his owne not being at that time much greater . In like sort wee may say, that the custome of the auntient Romans was commendable, to nourish vpon the publike charge three children borne at one birth, for a reward of the memoriall victorie obtained by the three *Horatij* against the *Curiatij*. But *Solons* law, which would haue their children which had beene slaine in the warres for their countrey , maintained by the publike , could not continue, although it were practised throughout all Grece, as we read in *Aristotle*, for it did quite waste and consume their treasure.

The beginning
of the kings of
Portugall.

B If any one suppose, that the bountie and greatnesse of a prince shall not appeare, if he giue to none but to such as shall deserue; I will yeeld vnto him. I know that bountie & magnificence is well befitting a great prince : neither must wee thinke it strange if the prince aduance one of a poore and base condition to honour and wealth, so as there be vertue and merit in him : else if the prince shall raise an vnworthie person aboue good men, or equall him in ranke with great personages, in doing good to the one hee shall wrong all the rest . That worthy saying of *Chilo* is extant, one demanding of him what God did, He casts downe the proud (answered he) from aboue, and raiseth the poore and deiefted to the highest degree of honour. A good prince should imitat God,

Bountie will be-
fit a great prince

C aduancing the poore and vertuous to honours and riches . But when as the colledge of Cardinals did admonish Pope *Iulio* the third, hauing created *P. M. du Mont* Cardinall, being a young boy whome he loued, saying, That it was a great dishonour to blemish so honourable an order with so base a man, hauing neither vertue in him, nor learning, neither nobilitie nor goods, nor any marke which might merit (as they said) to approach to such a degree : But the pope (who was verie pleasant) turning vnto the cardinals, What vertue, (saith he) what nobilitie, what learning, what honor, did you finde in me, to make me pope ? It is most certaine, that a vicious and vnworthy prince, will alwayes haue his friends and followers of his owne humor : as it appeares by the emperour *Helio galbas*, who gaue the greatest offices, and enriched the most detestable villaines in all the empire : wherewith his subiects and guard being incensed, they slew that monster of mankind, with his mother, and threw them into the common priuies . But without any further search, we haue seene the prooffe before our eyes, how disdainfully it hath bene taken to see the due rewards of good subiects, and vertuous men, giuen to the vicious, to straungers, and to the vnworthy, the which hath put the goodliest realme of Europe in combustion . For wee find, that the gifts in the yeare 1572 amounted to 270000 pounds sterling : and the yeare following to 204400 pounds: and in the yeare 1574 there was giuen 54700 pounds : and in the six months following they gaue 95500 pounds sterling, besides pensions which were not lesse than twentie thousand pounds sterling : and the greatest part of all this treasure grew by

A pleasant aun-
swere of pope
Iulius the third.

E the sale of offices, & by confiscations, which was the cause of all our miseries: and yet by the law of Fraunce, England, and Spaine, such buyers should be held infamous: which lawes should be reuiued, and that commendable custome which was practised vnder *Seuerus* maintained, who caused his name to be set vp in all publike places, whome hee meant to preferre to any gouernment, giuing leaue to all men to accuse him, yet with the paine of death to him that did it falsely, saying, That it was great shame to bee lesse carefull of the life and conuersation of a gouernour, than the Christians were of the qualities of their bishops and ministers, whome they examined with all rigour before they were admitted . The which is much more expedient than the manner of exami-

Aduancements
bestowed on the
vnworthy in-
cense the subiects

A commendable
custome of Ale-
xander Seuerus.

nation which the Venerians, Genouois, Luquois, and Florentines, do vse, after that the officer hath left his charge. For a bad and corrupt magistrat growne rich with thefts, will not sticke to corrupt a judge, to saue both his life and his goods corruptly gotten. It is better therefore to preuent a disease, than to labour to cure it, and better late than neuer, that the feare of this search might keepe officers within the bounds of their dutie. But yet *Solons* law was farre better, by the which the life of the officer was examined both before his admittance to the office, and after he had left it: as we read in the pleadings of *Demosthenes*. Having then examined the life and manners of such as aspire to dignities, offices, benefices, knighthoods, exemptions, immunities, gifts and rewards. If their liues be polluted and wicked, they are not onely to be reiected, but also to bee punished. And rewards are to be distributed to good men, according to euerie mans merit: and by an harmoniacall proportion you must giue the purse to the most loyall, armes to the most valiant, iustice to the most iust, the censure to the most vpright, labour to the strongest, the gouernment to the wisest, the priesthood to the deuoutest: yet hauing respect to the nobilitie, riches, age, and power of euerie one, and to the qualitie of the charges and offices. For it were a ridiculous thing to seeke a judge that were a warrior, a prelat couragious, and a souldiour with a conscience. We haue treated of Rewards, Triumphes, and Honours, which are for the most part giuen vnto men of warre: Let vs now see if it be fit to exercise the subiect in armes.

*Demost. in orat.
de falsa legat. &
contra Timarchum.*

*A true distribution
of offices and
charges.*

CHAP. V.

Whether it bee more conuenient to trayne vp the subiects in armes, and to fortifie their townes or not.



It is one of the highest questions of State, and it may be of the greatest difficultie to resoluē, for the inconueniences that may rise on either part, the which I will treat of as briefly as I may, setting down what I hold most conuenient, leauing notwithstanding the resolution to the wise polititians. To follow the opinion of *Aristotle* simply, and to maintaine that a citie ought to be well fortified, well situated for the sending forth of an armie, and of hard accessē for the enemy; were not to decide the difficulties which might be objected, whether it should haue place in a Monarchie, as well as in a Popular estate, or in a tyranie as in a monarchie; seeing that we haue shewed before that Commonweals contrarie one vnto an other, or at the least very different, must be gouerned by contrarie or very different maximes. Besides, for the well training the subiect vp in armes, there is nothing more contrarie than to fortifie their townes, for that the fortification of them make the inhabitants effeminate and cowards: as *Cleomenes* king of Lacedemonia doth witnes, who seeing the strong fortifications of a towne, he cryed out, O goodly retreat for women. And for this cause *Licurgus* the lawgiuer would neuer allow the city of Sparta to be fortified, fearing least the subiects relying on the strength of their walls should grow fainthearted, knowing well that there was no such fortresse as of men, who will alwaies fight for their goods, liues, and honors, for their wiues, children, and countrie, so long as they haue no hope in flight, or of any retreat to saue themselves. These two things then are contrarie, to haue warlike citisens, and fortified cities: for valiant and warlike men haue no need of castles, and those which dwell in strong places desire no warre. So we see the Tartarians in Scythia, and the Æthiopians and Arabians in Affrike, which are held to bee most warlike: and yet they haue no forts but tents, and some villages without wall or ditch. And euen the great Negus or

*Reasons against
the fortifying of
townes.*

Preste-Ian

A *Presse-Ian*, which is the greatest lord in all Affrike, hauing (as they say) fiftie kings vnder him that doe him homage, hath no forts nor castles, but his tents, but that fort only which is built vpon the top of the mountaine Anga, whereas all the princes of the blood are kept with a sure guard, least they should draw the subiects from the obedience of their prince by seditious factions. Yet there is no prince vnder heauen more reuerenced and respected of his subiects, nor more redoubted of his enemies, than in Tartaria, and Æthiopia. Forts are held fruitlesse and of small consequence in the opinion of the greatest captaines, who hold him that is maister of the field, to bee maister of all the townes. It is well knowne, that after the battell of Arbella in Chaldea, whereas *Darius* the last king of Persia was defeated, that there was neither citie nor fort in all the whole Persian empire, that held out one day against *Alexander* the Great, although there were an infinit number, and the conqueror had but thirtie thousand men. After that *Paulus Æmilius* had vanquished *Perseus* king of Macedon in battaile, there was not any one towne that made resistance, but all the whole kingdome yeelded in a moment. After the battell of Pharsalia, who forsooke not *Pompey*? all the townes and strong places of the East, which before were shut against *Cesar*, did now open their gates vnto him without any difficultie. And without any further search, it is well knowne, that after the victorie which king *Lewes* the twelfth obtained against the Venetians, he was presently maister of the townes. As in like case after the battaile of Marignan, all Lombardie, and euen the castell of Milan, yeelded vnto king *Francis*; and vpon his taking prisoner at Paui, he lost all on the other side of the Alpes.

Francis' Alueres
in the historie of
Æthiopia.

He that is master
of the field, is
master of the
townes.

But there is a more necessitie reason against the fortifying of places, it is to bee feared, that an enemy entring the stronger, and taking those strong places, hee will hold them, and by that meanes the whole countrey: whereas otherwise hauing once spoyled it, he shall be forced to leaue it. For this reason *John Maria de la Rouere* duke of Vrbin, rased all the forts of his countrey, and retired himselfe to Venice, finding his forces too weake to encounter the enemy; assuring him that the duke of Valentinois comming with all the power of the church could not hold it, being hated to the death, and the duke of Vrbin beloued and respected of his subiects; as it proued true. for pope *Alexander* being dead, the duke of Vrbin was receiued with great ioy of his subiects, and all other princes that were feudatories to the church, were either taken or slaine in their places of strength. And for the same cause the Geneuois, after the battaile of Paui, being reuolted from the king of Fraunce, besieged their fort called the Lanterne, and then rased it. As also the Milanois did the castle Ios, the which was built before the *Sforces* were lords of Milan, to the end that forreine princes should bring them no more in subiection by meanes of their fort. So the auntient Siracusians did Acradina, and the Romans the cities of Corinth, Carthage, and Numance, the which they had neuer rased, if the fort of Actocorinth and other places, strong by nature and easie to be fortified, had not forced them vnto it, least the inhabitants should make vse of them, as *Philip* the younger, king of Macedonie had done, who called the cities of Corinth, Chalceide, and Demetrias, the shackles and fetters of Greece. Which forts *Titus Flaminius* rased to the ground, to free them from the seruitude of the Macedonians, and to take away all feare of tyrants. The which is another strong reason to take all occasion from princes to tyrannize ouer their subiects, as those doe which assure themselves by Cittadels, which the people called Tyrants nests; and tyrants tearmed them a scourge for villaines, in contempt and scorne of the poore subiects: as *Grislerus* lieutenant to the emperour in Swisserland did, who built a fort in the vallis of Vri, and calling it *Zwing Vri*, that is to say, the yoake of Vri, which was the first occasion that moued the Cantons of the Swissers to reuolt, as we read in their histories. And *Salomon* was the first

The strongest
fort is the loue
of the subiects.

The first cause of
the Swissers
reuolt.

first that made a Citadell in Ierusalem, beginning euen then to intreat his subiects ill, exacting new tributes of them, giuing occasion to his successour to continue them, and for the ten tribes to reuolt, and to chuse themselues a king: for commonly Citadels breed a ieaiousie and distrust betwixt the prince and his subiects, the which is the nurse of all hatred, feare, and rebellion. And euen as castles and Citadels giue bad princes occasion to afflict their subiects, so townes well walled and fortified, do oftentimes cause subiects to rebell against their princes and lords; as I haue shewed elsewhere. And therefore the kings of England neuer suffer their subiects to fortifie their houses, the which is more strictly obserued in Mosconië, to auoid the rebellion of subiects, who are easily moued thereunto, trusting in their walles. And the inhabitants of Telesse in the realme of Thunis, relied so much in the strength of their citie wals, as commonly they slew their gouernours, not able to endure any commaund: so as the king of Thunis going thither with a mightie armie, he demaunded of them, Who liued? they answered him, The red wall: but hauing forced the towne, he rased it, and put all the inhabitants to the sword: as *Hannibal* did at Saguntum, *Sylla* at Athens, the emperor *Seuerus* at Bizantium, *Dagobert* at Poitiers, *Nabuchodonosor* and *Vespasian* to the citie of Ierusalem, all which were reuolted for the trust they had in their forts, eating euen their children through the tediousnesse of sieges, and in the end haue bene rased, and the inhabitants rooted out: the which would haue easily compounded, if the confidence of their strong places had not abused them. For commonly wee see, that weake townes and ill fortified, doe soone compound and send away the enemy, for some peece of money, without any infamie or dishonour: as it hath bene scene by the citie of Paris, the which was neuer taken since that *Cæsar* forced it, the which had bene long since rased, if it had bene fortified, hauing bene so often threatened by the enemy: but still they haue preferred themselues by treaties and compositions, the which they had not done being well fortified, either for feare of reproach and dishonour which follow them, which treat with an enemy when they may resist: or for the obstinacie of the inhabitants, or the heads of a faction, who had rather die, than yeeld vnto an enemy, hauing no hope to escape, & seeing their houses on fire, they strue in ruining it, to quench it with the blood of their fellow citisens. But there be no cities so strong, that can long resist the canon, and much lesse famine: For if the besieged be few in number, they shall be soone wearie and tired: if there be many, they shall be the soouer starued.

Weake townes
compound soone
to saue them-
selues.

Places of strength
make the inha-
bitants obstinat.

The inconueni-
ences of forts
and citadels.

If then forts and citadels make a bad prince to tyrannize, an enemy to ceize vppon the countrey, subiects to be cowards towards an enemy, rebels to their prince, and seditious among themselues: we cannot say they be profitable, or necessarie; but contrariwise hurtfull and pernicious to a Commonweale.

As for the other question, Whether we should traine the subiects vp in armes, and seeke warre rather than peace: It seemes we should not call that in doubt: for we must esteeme that Commonweale most happie, whereas the king is obedient to the lawes of God and nature, the magistrats vnto the king, priuat men to the Magistrats, the children to the parents, the seruants to the maisters, & the subiects vnited together in loue, and all ioyntly with their prince to enioy the sweetnesse of peace and true tranquillitie of mind. But warre is contrarie to this which I haue said, and souldiours are sworne enemies to this kind of life. It is impossible for a Commonweale to flourish in religion, iustice, charitie, integritie of life, and in all the liberall sciences and mechanike artes, if the citisens enioy not a firme and an assured peace. And who is more enemy to a peaceable man, than a furious souldiour? to a mild countrey man, than a bloodie warrior? to a philosopher, than a captaine? to the wise, than fooles? For the greatest delight that souldiours take, is to forrage and spoyle the countrey, rob the peasant, burne villages,

A villages, besiege, batter, force and sacke townes ; massacre good and bad , young and old, all ages, and all sexes ; force virgines, wash themselves in the blood of the murdered, prophane holy things, rase temples, blasphem the name of God, and tread vnderfoot all diuine and humane lawes . These are the fruits of warre, pleasing and delightfull to all souldiours, but abominable to all good men, & detestable before God. What need examples in so manifest a matter ? who can thinke of them without horror ? or heare them spoken of without sighing ? Who knowes not the wounds of the husbandman ? who sees not their miseries ? who heares not their complaints ? Euery mans field, cattell, and corne, wherewith we liue and draw our breath, are in the power of souldiours, that is (as many do interpret it) of robbers . If it be so, I see no reason why wee

B should instruct citisens in this cruell and execrable kind of life, or to arme them, but to repulse violence in time of extreame necessitie . For those which take small occasions to make warre, are like vnto flies, which cannot hold themselves vpon a smooth polished glasse, but vp on rough places . And those which seeke warre to enrich themselves with their neighbours spoyle, shall be in continuall torment, leading a miserable life : for desire hath no bounds, although in show they seeme to be contented with the desire of a kingdome : euen like vnto a slaue, who desires onely to be freed of his bands ; being vnbound, he affecteth his libertie ; and being free, he demaunds to bee made a citisen ; after that he desires to be a magistrat ; and being come to highest place of magistracie, he affects to be a king ; and being a king, hee will bee an absolute and sole monarch ; and in the end he will be worshipped as a God . How much more happy then

C is a prince, or a small Commonweale (although there be nothing little where there is content) enioying an assured rest, and a peace without enemies, without warre, and without enuie . For the bounds of a well ordered Commonweale are not limited by the sword, as *Agessilaus* boasted, but by iustice, as *Pompey* said to the king of the Parthians, when as he would haue the riuer of Euphrates to distinguish the bounds of the Roman and Parthian empires .

Warre hatefull
to God and man

The subject is
not to be traied
vp in armes.

This haue I briefly objected against the fortifying of cities, & militarie discipline : but many things may be said on the contrarie part, That townes without wals lie open to the spoyle of theues and robbers, and the lines and liberties of the citisens, to the

D mercie of their enemies . Moreouer a towne without walles seemes to be a bait to intice any one that would inuade it, who else would haue no desire, and lesse power, if it were well fortified : like vnto men that trauell vnarmed, they encourage theues to kill them, to haue their spoiles . For it is manifest, that the sacke of cities is a bait for souldiours, and he will willingly be an enemy to them that are weake, that durst not look of them being armed . Besides, the first, and in a manner the onely occasion to gather men together into one societie and communaltie, was for the tuition of euery one in particular, and of all in generall, and of their wiues, children, goods, and possessions, the which cannot be in safetie without wals . For, to say, that men will make a wall against the enemy, that may well be when as they must fight : but those which must

E make defence, are not commonly the fourth part of the inhabitants, for that there are alwayes more women than men, besides children, old men, sicke men and impotent, who can haue no recourse but vnto walles .

The inconueni-
ences not to haue
fortresses.

A towne vnfor-
tified, is a bait
for an enemy.

A communalty
cannot be in
safetie without
some defence.

It is a ridiculous thing to say, That men without walls will be more valiant : if that were true, what need we any offensive armes to affront the enemy, nay rather it should be necessarie to command euery man to fight naked, as *Isadas* did, being one of the goodliest and most valiant gentlemen of Sparta, who seeing *Epaminondas* with an armie of Thebans fighting with the Lacedemonians, and labouring to enter into their citie, he stript himselfe naked, and with a pertuisan in one hand, and a sword in the o-

ther,

Isadas punished
for his rashnesse,
and rewarded
for his valour.

Weake townes
must yeeld to
the victors will

A strong fort is
oftentimes the
ruine of the ene-
mies armie.

Leo of Affrike.

ther, he chargeth the enimie desperately, whereas he did valiant exploits: for the which the seigneurie gaue him a crowne, but he was condemned in a fine, hauing so rashly abandoned his life vnto the enimie, being vnarmed. In like sort should the Senat of Sparta haue been condemned in a great fine, for that they had abandoned the people and so great a citie to the mercie of their enemies, hauing no walls, the which without doubt had then fallen into the Thebans power if they had not been fortified with ditches and rampars. If a rampar did then auaille for the safetie of the citifens, who doubts but walls will be more profitable? and if walls make the citifens cowards, mutinous, and rebels, why did they not fill vp the ditches of Lacedemon? But the euent doth shew which of the two is most profitable, for *Cleomines* king of Sparta hauing lost the battaile of Selaria, hauing no place of retreat was forced to flie into Ægypt, abandoning his estate and countrie to the enimie, who presently entred into the citie of Sparta without any resistance. And if walls make men cowards, *Lisander* hauing taken Athens, would not haue razed the walls, the which *Themistocles* and *Pericles* had caused to be built for the defence of that citie, the which was afterwards the most flourishing of all the East. To say that the enimie shall not be able to hold a countrie if there be no walled townes, I yeeld vnto it: but who shall keepe him from the spoile of cities, from burning of houses, from murthering of men, rauishing of women, and leading children into captiuitie, according to the antient warres, that is, of the stronger? all histories are full of these calamities. There is also a small reason to thinke that weake townes and without walls will compound with the enimie, and not stand out; where as contrariwise an enimie that shall see the entrie easie, will neuer allow of any reasonable composition, which otherwise he would do, finding a difficultie to besiege and to force a town well fortified. Moreouer who sees not but a small fort doth oftentimes stay a great and mightie armie, whereof we haue too many examples: and many times those which do besiege are besieged with cold, hunger, and diseases, and for one they kill within, there are a hundred slaine without. Constantinople did indure the Turks siege eight yeares, vntill they were relieued by *Tamberlan* emperour of the Tartars, who defeated *Baiazet* king of the Turks with all his armie. Euen so the king of Fez indured a siege seuen yeares in the towne of Fauzara against the king of Marocco, whose armie in the end was consumed with the plague in the yeare 1412. And the towne of Mecna in Affrike held out also seuen yeares, whereas the enemies died for the most part, and were forced to depart with shame and losse. And in our age the citie of Metz (although it were nothing so well fortified as it is at this day) did long resist the armie of the emperour *Charles* the fift, and was a buckler vnto all France, which had been in great danger if the emperour had not found this towne well fortified, from whence he was forced to depart, being both himselfe and his armie besieged with hunger, cold, & many diseases. The citie of Tyre held out great *Alexander* seuen moneths, during which time the king of Persia had good meanes to leaue forces, and to prouide for his estate. And if walls made men faintharted and cowards, why did the Romans fortifie their citie, being the most valiant people that euer were? And it was auailable for them to haue good walls, when as *Marcus Coriolanus*, the *Tarquins*, *Hannibal*, and others did besiege them, and burnt euen vnto their gates. And euen when as the Gaules had forced and wholie burnt the citie, their estate had been vterly ruined if they had not retired into the Capitoll. The like had happened vnto the Pope and Cardinals after that the armie of *Charles* of Bourbon had sackt Rome, if they had not fled into the castell S. Ange, where they were besieged as long as the antient Romans were in the Capitoll. And euery man knowes that countries without forts are presently conquered vpon the first battaile that is woon within the countrie, as we reade of England, which

A which the Saxons conquered from the ancient Britains, who were expelled, and their enemies tooke possession. After the Saxons the Danes entred, who were lords of it for the most part: then *William* the Conqueror by the meanes of one only victorie became absolute lord, and tooke possession thereof. And during the quarrels betwixt the houses of Lancaster and Yorke, the realme was lost and recovered thrise in sixe moneths: as if *Henry* the sixt, *Edward* the fourth, and the earle of Warwike had played at base: and although that *Edward* in the end inioyed the realme, yet soone after his death his brother *Richard* duke of Glocester (hauing made himselfe king by the murder of his nephues) was defeated and slaine by the earle of Richmond, who had bin banished into France, from whence he brought soine small ayde which king *Lewis* the 11. had giuen him. The which happens not in fortified countries where there is any retreat: for which

B cause the Romans did neuer camp but they cast vp a trench about the armie of 25 foot broad, and most commonlie with palissadoes; neither did they euer giue battaile but they left a garrison within their camp, to make good the retreat if their enemies were the stronger, the which hath relieved them in great losses, as *Paulus Æmilius* did wisely discourse vnto the armie before that he gave battaile vnto the king of Macedon, saying, *Maiores nostri castra munita portum ad omnes casus exercitus ducebant esse, unde ad pugnam exirent, quo iactati pugne receptum haberent & qui castris exutus erat, etiam spugnando acie vicisset, pro victo habebatur*: Our elders held a camp well fortified; a safe retreat for all euents, from the which they went forth to fight, and retired if they were beaten, and he that had lost his camp, although he had overcome in fighting, yet was he held as vanquished. The experience of many ages, and of the ancient Commonweales of the Persians, Egyptians, Greeks, Latins, Gaules, and other nations, which haue alwaies fortified and vittailed their townes, ports and places that were fit to be fortified, to assure and defend their friends, and to incounter and resist their enemies, giues vs to vnderstand, that it is necessarie to vse it; and euen the Tartars within these hundred yeares build and fortifie their places: for how valiant soeuer a nation be, yet can they not long resist nor vanquish him which is much more stronger. These reasons shall serue to prooue that it is necessarie to fortifie towns. We will in like maner hold,

C that the citisens must be instructed in martiall discipline, for that seeing by the lawes of God and nature we may defend our liues from violence, and our goods from spoyle, we must then conclude, That it is needful to accustome the subiects to armes, not only defensue, but also offensue, to protect the good, and offend the wicked. I call all those theeues and wicked which make warre vniustly, and take away an other mans goods wrongfully, and euen as wee ought to punish and take reuenge on subiects that bee theeues and robbers, so must we of strangers what royall title soeuer they carrie, this is grounded vpon the law of God and nature. Neither is it true that *Tully* writt, That no warre was iust but for the recouerie of ones owne; or, that was denounced before vnto the enemy: for the proclaiming of warre makes it not iust, but the cause must be necessarie: there can be none then more iust than to defend the liues of innocents. There are other priuate considerations besides these: for the best meanes to maintaine an estate, and to preferue it from rebellions, seditions, and ciuill warres, and to entertaine them in loue, is to haue an enemy against whom they may oppose themselues. This appeares by the example of all Commonweales, and namely of the Romans, who neuer could find a more safe and surer remedie against ciuill warres, than to affront the subiects with an enemy: for being on a time at warre among themselues, the enemy entred the towne, and seized vpon the Capitoll, but suddenly they were reconciled, and expelled him: a while after the Veientes seeing them returne to ciuill warres, they began to wast and spoyle the Roman territories, but the Romans were soone agreed, discharging

E

The realme of England thrise conquered.

The Romans did alwayes fortifie their camps.

A countrey vnfortified cannot long resist a strong enemy.

The cause makes the warre iust.

War against an enemy, entertaines the subiects in loue.

Dion. Halicar. lib. 7. Lium lib. 3.

Ciull warres the
ruine of states.

Newhauen taken
by the English
caused the ciuill
wars of Fraunce
to cease.

Rest the cause of
ciuill ware in a
warlike citie.

The first occasi-
on to ruine the
Roman empire.

Armes the de-
fence of states.

A meane to
purge the Com-
monweale of va-
gabonds and idle
persons.

their choller vpon them, so as they neuer ceased vntill they had razed their citie, and made the inhabitants subiect. And about the same time the princes and people of Tuscan having conspired against the Roman state, sought to nourish seditions and diuisions among them, saying, That their power was inuincible, and would alwayes grow, if it were not made weake by ciuill warres, the which is the only poyson to make Empires and States mortall, which else would be immortall. In like case the people of Spaine being reuolted from the emperour *Charles* the first, forcing in a manner the duke of Calabria to accept of the Crowne, being thus in armes one against an other, king *Francis* the first sent an armie which recouered Fontarabie and the kingdome of Nauarre, but sodenly this ciuill warre was pacified among the Spanyards, who with one common consent fell vpon the french, and recouered that from them which they had conquered, else the state of Spaine had been in great danger, as many haue supposed, if the french had temporized a while. And without any further search, we haue a president of this realme, the which was in great hazard in the yeare 1562, if the english had not set footing into France, hauing seized vpon Newhauen, but presently the ciuill warres ceased, and the subiects agreed to fall vpon their common enemy, which the english perceiuing, they haue since resolved to let the french fight and ruine one another, and afterwards to inuade the realme without any difficultie or resistance. But I will returne to fortaine examples, (and I would to God we had no domesticall presidents) to shew that it is a hard thing and almost impossible, to maintaine subiects in peace and loue, if they be not in war against some enemy. It is apparant in all the histories of the Romans, who after they had vanquished their enemies, presently fell to mutinie, for which cause the Senat entertained warre, and deuised enemies when they had none, to keepe them from ciuill warres, the which they continued vntill they had extended their frontiers vnto the islands of Orcades, to the Atlantike sea, to the riuers of Danubius and Euphrates, and to the deserts of Arabia: and hauing no more enemies to make head against them, they murdered one an other most cruelly, and so much the more, for that they were growne mightie, and had few enemies, as in the ciuill warre betwixt *Cesar* and *Pompey* for rule, whereof *Cicero* speaking said, *Bellum prium ac necessarium visum est, ciuibus tamen exitiabile, nisi Pompeius vicerit, calamitosum etiam si vicerit*: It seemes, said he, to be a godly and necessarie warre, yet fatall vnto the citisens vnlesse that *Pompey* win, and lamentable if he do win: But it was more cruell betwixt *Augustus* and *Marc Antonie*: for which cause the emperour *Augustus* hauing changed the popular estate into a Monarkie, was not so ill aduised as to discharge the fortie legions, but he sent them into prouinces, & vpon the frontiers of barbarous nations, to entertaine them in martiall discipline, and to preuent all occasions of ciuill warres at Rome. But the emperour *Constantine* the great (following the counsell of some Bishops and ministers vnacquainted with matters of State) discharged the legions, which made them forget the ancient militarie discipline, and opened a gate to barbarous nations, who inuaded the Roman empire of all sides, whereby it appeeres that lawes, iustice, religion, subiects, and the whole estate next vnder God, is in the protection of armes, as vnder a strong shield. There is yet an other reason of great moment, to shew that it is necessarie to entertaine martiall discipline, and to make warre, for that there is no citie so holy, nor so well gouerned that hath not in it many theeues, murderers, idle persons, vagabonds, mutins, adulterers, and diceplayers, which leade a wicked life, and corrupt the simplicitie of good subiects; neither can lawes, magistrates, nor any punishment keepe them in awe. And euen it is commonlie said that gibets are set vp but for beggars, for that statutes and ordinances in many places are like vnto spiders webs, as *Anacharsis* said vnto *Solon*, for that none but weake flies are taken in them, and great

A great beasts breake easily through them. There is no better meanes then to purge the Commonweale of this infectious filth, then to send them to the warre, the which is as it were a purging medicine to expell corrupted humors out of the vniuersall bodie of the state. This was the principall occasion which moued *Charles* the wise king of France to send succors so willinglie vnto the bastard of Castille vnder the conduct of *Bertrand* of Guesclin Constable, the which purged France of an infinite number of theeues: Euen so did *Lewis* the 11 to the Earle of Richmond; and both the one and the other not only purged France of idle persons, but also returned with honor to haue sedled two kings in their estates, from the which they were expelled. Moreouer, the militarie discipline of the Romans which should be common to all nations, made a co-

B ward valiant, an intemperat man modest, a slothfull man actiue, a prodigall man frugall, and a licentious man continent; neither is it sufficient for a captaine or souldier to know how to fight, but there are many other excellent arts which be companions to this vertue, that is to say labor in busines, resolution in dangers; temperance in desires, industrie in action, speed in execution, and counsell in prouiding, these are necessarie for the arte of warre. The subiect then being instructed in militarie discipline, is not infected with lust, licentiousnes, impietie and sloth, but being wicked and impious, they inure themselues to all kinds of vertue if they learne the precepts of the Roman militarie discipline and arte of commanding. Besides, there is nothing that containes the people within the dutie of honor and vertue more then the feare of a warlike enemy. The

The martiall discipline of the Romans, was a schoole of vertue.

The praise of militarie discipline.

C people of Rome (saith *Polibius*) were neuer more vertuous, nor the subiects more obedient vnto the magistrates, nor the magistrates vnto the lawes, then when as *Pyrrhus* at one time, and *Hanniball* at an other were at the gates of Rome; but after that *Perseus* and *Antiochus* were vanquished, hauing no enemy left whom they might feare, then vices began to take roote, and the people fell into superfluities and delights, wich corrupted all good manners, and blemished the beautie of their antient vertue. O how wisely did *Scipio* oppose himselve in open Senat, that the citie of Carthage should not be razed, foretelling they either should haue ciuill warres, or that the vertue of the Romans would soone decay, hauing no enemy to contend withall, for euen as moderate libertie puffes men vp, and makes them proane to all vices, so feare retaines them in their duties: and we must not doubt but the great politician and gouernour of all the world as he hath giuen to euery thing his contrarie, so hath he suffred warres and hatred among nations to punish one by an other, and to keepe them all in feare, which is the only comptroller of vertue, as *Samuell* in an oration which he made vnto the people said, That God had stirred them vp enemies, to keepe them in awe, try them, and punish them. And that I may conclude briefly, if there be no respect had of so many commodities, yet let vs haue a care of the health and necessitie of the Commonweale, least it grow wast and desolate through the spoiles and insolencie of the enemy, for when as the enemies forces are neere, although there be no inuasion, yet the flocks are forsaken, the tillage is abandoned, and all trafficke ceaseth; and oftentimes the whole

The feare of enemies keepe subiects in awe.

The prouidence of *Scipio* the younger.

D yeares fruits are lost at the rumor of any danger, or the terror of warre. Who will then doubt but the subiects should be trained vp in armes, in the which there is not only much glorie and profit, but also the health of the citifens, the help of their neighbors, the fortunes of the subiects, and the securitie of them all. By these reasons it appeares, that they are much abused which thinke that the only end of warre is peace. And if it were so, what better meanes were there to haue peace in despite of the enemy, then to let him know that you haue meanes to make warre? Neuer wise Prince nor good Captaine made a peace vnarmed, and as *Manlius Capitolinus* said, *Ostendite modo bellum, pacem habebitis, videant vos paratos ad vim, ius ipsi remittent*: Shew them

Wars allowed of God.

The way to haue a peace, is to prepare for force

A resolution of
the question.

In a Popular
estate the subjects
must be trayed
vp in armes.

In a Popular es-
tate onely the
capitall citie
must be fortified

Citadels not to
be built in a Po-
pular estate.

Citadels the
cause of tyrants.

Citadels more
dangerous when
a few do govern

To fortifie the
frontiers, is ac-
cording to the
law of nature.

warre said he, and you shall haue peace, let them see you readie for force, and they will do you right. These reasons are partly true and partly probable, and may of either side dazle the eyes of the cleereſt ſighted if they looke not neerely vnto them. To the end we may reſolue ſomething, let vs diſtinguiſh of Commonweales. I hold then that in a popular eſtate it is neceſſarie to traine the ſubiects vp in armes, to auoid the abouena-
med inconueniences, vnto the which a popular eſtate is by nature ſubiect; and if the people be warlike and mutinous by nature, as the nations of the North be, being train-
ed vp to armes and martiall diſcipline, it ſhall be expedient to affront them often with their enemies, and not to admit any peace but vpon good termes, as a dangerous thing to a warlike nation. And a peace being concluded, you muſt notwithstanding entertain your ſouldiers vpon the frontiers, as the emperor *Augustus* did, although he had changed the popular eſtate into a Monarchie: or elſe ſend them to Princes that are in league, to be entertained in the art of warre; as the Swiſſers haue wiſely done, being a people bred in the mountaines apt to warre, and hardly maintaiued in peace, inioying a popular libertie; and by this meanes they haue alwayes had ſouldiers nourished and entertained at another mans coſt, beſides their publike and priuat penſions (which haue been great, as I haue formerly ſhewed) and the aſſurance of their eſtate, by means of alliances contracted with ſo mightie a king. And as for forts, it is not needfull in a popular eſtate to haue their townes too well fortified (except it be the chiefe citie, which is the ſeate of the popular eſtate) and much leſſe any Caſtels or Citadels, leaſt ſome one thruſt on with an ambitious deſire of rule ſurpriſe them, and change the popular eſtate into a Monarchie: as *Denis* the tyrant did, hauing ſurpriſed Acradina the fort of Siracufa by fraud. Or elſe the enemy may take them & fortifie them, as the Lacedemonians did, hauing razed the walls of Athens, they left a gariſon in the Caſtell: and doing the like vnto the popular eſtate of Thebes, they tooke their fort called Cadmee, leauing a gariſon in it. For there is no meanes to ſubiect a people, or to change a Democratia into a Monarchie but by Cittadels, ſo did the tyrants in old time: and in our age *Cofme de Medicis* duke of Florence had made two Cittadels in Florence, with a gariſon of ſtrangers, hauing found by experience that it was impoſſible to change the popular eſtate into a Monarchie, and to aſſure his life among the people: and therefore the Cantons of Vri, Vnderuald, Glaris, and Appenzell, which are all popular, haue no walles, like vnto the reſt which are gouerned Ariſtocratically. We will giue the ſame cenſure of *Ariſtocratie* in regard of fortrefſes, as of a popular eſtate, the which is ſo much more to be feared, for that it is more eaſie for one of the commanders to win the common people to his will, and to incenſe them againſt the chiefe men. But as for royall Monarchies, if their bounds and limits be large, it is not expedient for the Prince to build Cittadels, nor places of ſtrength, but vpon the frontiers, to the end the people may be without feare of tyrannizing; and yet hauing fortified the frontiers of his eſtate with places impregnable, the ſubiects will ſtil thinke it is againſt the enemy, and the Prince at neede may vſe them againſt all enemies, both ſtrangers and ſubiect in caſe they rebell: the which nature hath taught vs, which hath armed the head and the extremities of all beaſts, leauing the middeſt, the bowels, and the other parts vnarmed. But the Monarke is ill aduiſed that doth inuiron a towne with mightie walls, if he doth not withall build a good Cittadell, for that nothing doth more animate the ſubiect to reuolt, the which they would not ſo eaſily attempt, ſeeing before their eyes Cittadels well fortified. It is alſo neceſſarie as well in a Monarchie as in an Ariſtocratie, that the gouernor of the towne depend not of the capitaine of the Cittadell, nor the capitaine of the gouernor, neither that the capitaine of the Cittadell be a Prince, or a great man: the which is well obſerued in Turkie, according to the rule

A rule of the antient Sultans of Egipt, as also our kings do, but the Venetians more strictly then all others, for that they are forced to fortifie their townes, to defend the subjects against their enemies, and fearing the rebellion of their subjects, who haue no share in the gouernment, they haue strong Cittadels in their townes; whither they do euery yeare send new Captaines besides the Porestates or Gouernors, least that he should hold the Cittadell as his inheritance. And those of Rhagouse (which haue but one citie and a small tetratorie) are forced to change their Captaine euery day, who is brought into the fort with his face couered. In like sort the Athenians changed the Captaine of their forresse euery day, the which was one of the nine Archontes, for the distrust they had that one of the subjects should make himselfe lord. For the preuenting whereof, it shall be needfull to remoue Cittadels from the capitall townes in a popular estate, or an Aristocraticall estate, as the Venetians haue done wisely at Venice, to take all occasion from the duke, and to free the gentlemen from suspicion of any alteration in the state. It was wisely prouided in England, Turkie, Muscouie, and in a manner by all the kings of the East and of Affrike, that no subject should fortifie his house in the countrie, for if the maister of a priuate castell be a great man, he will soone take an occasion to reuolt, if he be poore, to rob; and for this cause the imperiall townes of Germany haue oftentimes razed gentlemens castels, that rebels and theeues might haue no retreat, the which the Swissers haue done throughout all their countrey, hauing expelled the antient lords. But this were a dangerous thing in an antient Monarchie to ruine priuate mens castels which are of strength, but well they may prohibit their subjects not to build any more without licence from the Soueraigne, who may not easily grant it, for that it is sufficient to haue a house able to defend him from theeues, and thus much for fortifications. But the question is not small, if in Aristocratie, the better sort only, which command, are to be trained vp in armes, or all the people, or else wholie to banish the arte of warre. If the common people do once become souldiers, it is to be feared they will attempt to change the state; to haue a part in the gouernment, if they be not alwayes imployed against the enemies, as I haue shewed before by many examples; and if none but the better sort be armed, they shall be soone defeated, and will cause a necessarie change of their estate: but if they will quite banish the arte of warre out of their Commonweale, they shall remaine a skorne and pray to all their neighbors, if they be not strictly allied vnto the strongest, or else if they haue not townes that be inaccessible and forts impregnable, as the Venetians, who fearing the aboue named inconueniences, haue banished the arte of warre out of their Commonweale, as Cardinall *Contarenus* saith: the which is rather to be attributed to sloth, then to any set or positive law, for that within these two hundred yeares they were verie warlike, and obtained great victories of the Genouois, but pleasing themselves with the continuall fruits of peace and ease, they haue neglected the practise of armes, imploying strangers in their warres: neither can they indure any gentleman of the seigneurie to be a commander, but if they know any Venetian gentleman that aspires to the warres, and that followes the courts of other Princes, by and by they call him home, desiring rather to haue an Almain a Bargamasco, or a stranger for their generall, if they make warre by land, than one of their owne lords, and an armie of strangers rather than of subjects: but withall they send a Pronidador or Commissarie, by whose counsell the Generall is gouerned. And although there be many inconueniences, to haue a Commissarie commaund a Generall, a citisen strangers: one that vnderstands nothing in matters of warre, them that are bred vp in armes: yet by this meanes they auoid many other daungers which are not lesse: the which we haue scene fall out in their Commonweale, whereas they vsed none but their own subjects and forces. Their

Cittadels in townes of strength, keepe the subjects from rebelling.

Distrust of noble men in an Aristocraticall estate.

Cittadels not to be built in the chiefe citie of a Popular estate, nor in a Seignourie.

The Venetians do not practise armes in their Commonweale.

Why the Venetians neglected armes.

Why the Venetians imploy strangers in their warres.

The seignury of Venice most happy.

The Venetians desire peace with their losse.

A generous prince demands neither peace nor warre.

Lewis the eleventh reproched by his subiects for demanding of a peace.

Charles the seventh demands a peace basely of the duke of Bourgogne.

histories are full of conspiracies, seditions & civil wars, which they had in the midst of their city. The Carthagineans, being not yet wel instructed in the art of war, were wont to send for Lacedemonian captaines, which should lead a Carthaginean armie vnder a Generall of Carthage; yet would they neuer haue both Generall and armie strangers, least their Commonweale should fall into the power of straungers. If warre be not to be vndertaken, but for the repelling of iniuries, and to enioy peace; and that it sufficeth to make a Commonweale happie to keepe their owne, to haue their places neere vnto their enemies well manned and fortified, and to enioy the fruits of a desired peace; without doubt the Seignurie of Venice may iustly tearme it selfe happie, which hath not onely the seat of their empire by nature and are inexpugnable; but also haue their townes and fortresses vpon the continent so well fortified; as they neither need to feare the inuasions of their enemies, nor the rebellions of their subiects: caring little for any new conquests, or to extend their bounds. We see the Venetians do flie from all occasions of warre, as from the plague, and they neuer enter into it but by constraint, and seeke for peace at what price soeuer, euen with the losse of their reuenues; as we may see in the treatie which they made with pope *Iulio* the second, the emperor *Maximilian*, and the king of Naples, in the yere 1508, their ambassadours being humbled at their feet, yeelding to all which they demanded. As they did in like maner to *Sultan Selim* in the yere 1570, abandoning the holy league to purchase his peace, after they had lost a goodly kingdome. And euen as beasts which haue no offensive armes, as hares that haue no gall, as Stagges and Does seeke to saue themselves from the hounds and hawke, by flight; so they are not to be blamed, nor that Commonweale to bee lesse esteemed, which sues for peace, hauing no meanes to resist: the which would be dishonourable to a warlike nation, or for a conquering prince, who cannot demaund a peace of his enemy without blushing. There was nothing that did so long protract the conclusion of a peace betwixt king *Henrie* the second, and the emperor *Charles* the fift, as a certaine rumor spred abroad, That the emperor demaunded a peace: which was to get the highest point of honour, which a generous prince may desire, yea if he were entered into anothers countrey. As the same emperor did in the yere 1544, hauing thrust all the forces of the empire, and his owne, into this realme, with those of the king of England on another side, who had alreadie diuided the realme betwixt them (as *Sleidan* saith) if the pope had not forced the emperor to make a peace: which the king would neither demaund, nor accept, but with reasonable conditions. Although that *Lewis* the eleventh demaunded it of *Edward* the fourth, king of England, as soone as he was entered into Picardie, and bought it deerely, caring little that the earle of Lude and other his fauourites called him cowardly king. But his father *Charles* the senenth did a stranger thing for to obtaine a peace of the duke of Bourgogne, his vassall and naturall subiect; he sent the constable of France, the chauncellor, a marshall of France, and many other great personages, to treat a peace with him, who in open assembly, and in the name of the king their maister, craued pardon of the duke, for the death of *Iohn* duke of Bourgogne, confessing openly, That the king had done ill, being young, indiscreet, and ill counselled; intreating the duke, that he would forget his discontent: the duke said, That he did pardon the king for the honour of God, and compassion of the people of Fraunce; and to obey the counsell of the pope and other christian princes that had intreated him. A slaue could not behaue himselfe more humbly and abiectly vnto his maister, than the king did vnto his subiect, to restore the realme to his first beautie, and to exepell the English, as he did soone after. The Romans would rather haue lost their estate, than once to haue dreamt of it: For wee cannot find that at any time during seuen hundred yeares, that they had warres with all nations, that they

A they euer demanded peace but of the Gaules, who held them besieged in the Capitol, after they had burnt their citie : and of *Coriolanus* : But contrariwise being vanquished by the power of king *Perseus*, they would neuer accept of any peace of the victor, vnlesse he would submit himselfe and his kingdome vnto their mercie, although he offered to pay them tribute. And when as king *Pyrrhus* (after that hee had obtained two notable victories, and was maister almost of all Italie) sent his ambassadour to Rome, to treat a peace vpon reasonable conditions : they were answered; That the Romans would not treat of any peace, except that *Pyrrhus* did first depart out of Italie ; and that they did contend with him for their honours and dignities, not for their liues and fortunes. The king receiuing this answer, said, That the Romans could not liue in quiet, neither conquerors, nor conquered. This was the answer of a valiant people, who knew their owne forces to be able to make head against an enemy : the which would be very much vnbesitting a weake prince, who must (like vnto a wise pilot) strike sails, & yeeld vnto the tempest, that he may recover a safe port, & not to make necessitie subiect to ambition : as the Vauoide of Transilvania did, who said openly, That he had rather bee slaue vnto the Turke, than allied vnto *Ferdinand*, and so afterwards it fell out. Wee haue an example of the great Knez of Moscouie, who seeing the Procope of Tartaria entred into his countrey with eightene legions, knowing well that he was vnable to make resistance, he went to meet him vnarmed, and humbling himselfe before him, he saued his people and his estate from an ineuitable ruine, yet holding his countrey by yeelding homage to the Procope. But being at this day equall or greater in forces, & freed from the seruitude of the Tartar, all princes would scorne him, if he should demand a peace, especially hauing receiued an iniurie. For that prince that beares an iniurie, will soone endure to haue a law prescribed him ; and if he once suffer his enemy to giue him a law, he shall soone be reduced into slaue. But howsoeuer, a mightie prince (if he be wise and valiant) will neuer seeke for war nor peace, if necessitie (which is not subiect to the lawes of honour nor force) doth not constraime him, neither will he euer giue battaile, if there be not more apparant profit in the victorie, than of losse if the enemies should vanquish : as the emperour *Augustus* said, who for this reason neuer gaue battaile but vpon necessitie. But it is not vnfitting a poore prince, or a small seigneurie, or for him that makes no profession of armes, to demand peace in his losse. As pope *Iulio* the third, who demanded peace of king *Henrie* the second, calling him before God, to iudge of the wrong which hee had done him : The king graunted him a peace, and said, That he would appeare before God ; but hee doubted the pope would not shew himselfe. Wherewith the pope, who was of a pleasant disposition (seeing the letters which were signed by the king in the campe lying at Metz ; in the yeare 1552) was very glad, although in shew he seemed to bee grieved, saying, That it was not the king that had indited those letters, but the capitall enemy of the church. And as the greatnesse of courage and magnanimitie is the light of all other vertues, and which doth aduance princes to the highest point of honour ; so is it the onely vertue which doth most daunt an enemy, although he be mightie and warlike, and oftentimes giues the victorie without blowes : as *Furius Camillus* hauing sent home the children of the Falisques, whome their Schoolemaister had brought into his campe, he conquered their citie without striking stroke. And *Fabricius* hauing sent vnto king *Pyrrhus* the Physitian which offered to poison him, refusing halfe his kingdome and his treasure, (although he were one of the poorest gentlemen in Rome) and causing their ransomes to be paid, whome *Pyrrhus* had freely set at libertie, being loath the Romans should be bound in any respect vnto so great a king. Or as *Scipio* who hauing conquered a good part of Spaine with little paine, sent backe a ladie of sn-

The Romans neuer demanded a peace of any butt twice.

The Romans of an vdaunted resolution.

It is no dishonor to submit in time of necessitie.

When a prince should giue battaile.

A shew of courage doth many times daunt an enemy.

The Romans
could neuer be
vanquished by
honour, nor by
treacherie.

A worthy an-
swere of Scipio.

A prince may
not hazard his
estate vpon one
victorie.

The presence of
the prince is of
great conse-
quence to van-
quish an enemy.

gular beautie vnto her husband, prince of the Celtiberians, imitating the example of *Cyrus*. These vertuous acts tooke from their enemies all courage, to make any more warre against so valiant and magnanimous a people, who could neither bee vanquished by honour, nor vanquished by treacherie: the which was more apparant after the battaile of Cannes, *Hannibal* hauing appointed eight thousand Roman prisoners to be ransomed for an hundred crowns a peece one with another, hoping that the Romans who had lost so many men, would willingly pay their ransoms: but the Senat decreed, That no one should be redeemed at any rate, giuing all to vnderstand, That either they must vanquish, or be slaues to the enemy: Wherewith *Hannibal* was so amased, and daunted, as he dispaired euer to vanquish the Romans. And contrariwise the Romans did assure their estate, which was much shaken and abandoned of all friends and allies. For the Senat did well imagin, that *Hannibal* hauing sucked so much blood of the Romans, he would also exhaust their treasure, in drawing from them eight hundred thousand crownes, and restoring vnto them the veriest cowards of all the Roman armie; making every one to resolute either to vanquish or die, hauing lost all hope of libertie, whereby they became fearefull and inuincible. And euen as they neuer fainted in their losses; so were they neuer proud nor arrogant in their victories. For when as *Antiochus* the Great hauing lost a goodly armie, sent his ambassadours to both the *Scipios*, offering to accept of what conditions the Romans pleased: Whereunto *Scipio* the African made an answer worthy of a great and vertuous prince, That the Romans lost no part of their courage when they were vanquished, nor of their modestie, when they did vanquish, demanding no harder conditions after their victorie than before. But the aduantage which the Romans had, was, that they made warre in their enemies countrey, hauing magazins of souldiours in Italy, to supply their armies if they were defeated: or if they conquered those countries where they made warre, they might add them to their empire, & plant them with their owne colonies. A wise prince will neuer attend an enemy in his own country, if he may stop his entrie, vnlesse he hath another army ready, or a sure retrait into some places of strength, els he hazards his whole estate vpon a victorie; as *Antiochus*, *Perseus*, *Iuba*, and *Ptolome* the last king of *Ægypt* did against the Romans: *Darius* against *Alexander*, and oftentimes the French against the English. And for this cause *Lewis* the grosse vnderstanding that the emperor *Henry* came with a mightie power to make warre in Fraunce (the king hauing receiued Pope *Gelasius* into his protection, and suffered him to excommunicat the emperor) he gathered together an armie of two hundred thousand men, as *Suggerius* abbat of Saint *Denis* in Fraunce hath left in writing, and went as farre as the Rhin vpon the territories of the empire, which was the onely cause that made the emperor to lay aside armes, and to accept of what peace it pleased the king. In like sort *Philip Augustus* aduertised that the emperor *Otho* the second, the king of England, with the potentiats of the Low countries, came into his realme with a mightie armie, he fortified his places, marched out of his frontiers, and defeated them in battaile. And if king *Francis* the first, when as he lost his armie before *Pavia*, and himselfe taken prisoner, had receiued such an ouerthrow in the hart of Fraunce, this realme had bene in great daunger; but chancing in Italie, the conquerors contented themselues with the victorie; and the subiects in the meane time had leasure to rally their forces, and to fortifie their frontiers.

Many hold opinion, That a soueraigne prince should not hazard his person on a day of battaile, especially if the enemy be entred into the hart of his realme: It is true, if he be a coward and base minded: but hauing the reputation of a valiant and generous prince, he doubles the courage and force of his armie, and so much the more if he be beloued of his armie, and his presence works a wonderfull effect, when he is seene of them

A them all, and euerie one seene of him, for oftentimes shame retaines a flying armie, seeing the presence of their king, and fearing least he should fall into some daunger, *Urget enim (ut ait Maro) presentia Turni*, The presence of *Turnus* (as *Maro* saith) doth vrge them to fight. As it happened to *Cesar* before *Therouenne*; and in *Spaine*, fighting for his life against *Pompeis* children, where the battaile had bene lost if he had not bene present. And many beleue that the victories which *Edward* the fourth got in nine battails, was, for that he did alwaies fight on foot. How many princes and great men do willingly follow the kings person, which else would not march vnder any others commaund. For when as *Eumenes* was very sicke his armie refused to fight, vnlesse he were brought into the campe in a litter; such confidence they had in his presence. Yet

B would I not that a soueraigne prince or a Generall, should do the office of a priuat soldiour, putting his life rashly in daunger; as it is said of *Pelopidas*, *Marcellus*, *Gaston de Foix* duke of *Nemours*, and many others, whose death hath drawne after it the hazard of the state.

How a prince or Generall should carry himselfe in a battails.

I will not here treat of the art of warre, which many haue handled, but onely that which concernes the state. I conclude then, that a prince hauing well manned and fortified his frontiers, if he doubts that the enemy will enter into his countrey, let him preuent him, and put the warre as farre from him as he may: and if he be entred, not to hazard his estate and person rashly vpon the euent of a battaile, especially if hee haue to deale with a warlike people, who commonly get the victory being brought to dispaire,

C knowing well, that there is no meanes for them to escape death in anothers countrey, if they be vanquished, hauing neither fort, retreat, nor any succour. Amongst many we haue a lamentable example of our king *John*, who chose rather to hazard his life, his nobilitie, and his whole estate, in a doubtfull battaile at *Poitiers*, than to graunt a peace vnto the prince of *Wales*, and the English armie, who demaunded only to depart with their liues: there did ten thousand desparat men defeat an armie of fortie five thousand French, and led away the king captiue. *Gaston* of *Foix* committed the like error, hauing defeated the enemy at *Raouenne*, seeking to pursue a squadron of Spaniards that fled, he lost his life, and left all that hee had conquered in *Italie* in prey to the enemy.

It is dangerous to fight with a desperat army.

What should I speake of auntient examples, the histories are full of them: but there is none more famous than that of *Cesar*, whose armie was in despaire through famine & want, being enuironed both by sea and land with the enemies townes and legions, and had soone perished for hunger, if they had not vanquished, yet would *Pompey* needs giue that battell of *Pharsalia*, hauing twice as many men as *Cesar*. In so great a despaire of things, the Generall of the *Volsques* did incourage his armie with a brieft speech; after this maner, *Armati armatis obstant virtute pares, sed necessitate superiores estis*, Armed men stand against armed men, equall in vertue, but in necessitie you exceed them. And another capitaine of the *Samnites* said, *Iustum est bellum quibus necessarium, & pia arma quibus nulla nisi in armis relinquitur spes*, That war is iust to whome it is necessarie, and those armes religious to them that haue no hope but in armes. And therefore *Fabius Maximus* (the last of that familie) endured all the scornes and disgraces of his enemies, rather than he would commit the fortune of the Commonweale to a doubtfull battell: and in the end he reaped the honor, To haue preserved his countrey. Whereas *Hannibal* hauing hazarded a battaile against *Scipio*, who went to besiege *Carthage*, to draw the enemy out of *Italie*, lost both his armie and the estate. It is no good consequence to say, that the Romans fought three battails with *Pyrrhus*, and as many with *Hannibal*, in the heart of *Italie*, for that they had magazins of men of warre, as well out of their owne countries, as from their allies: the which they could not want, for that by the laws euerie one was forced to carrie armes at seuentene yeares of age, and were not freed

Necessitie of an inuincible force.

No prince should fight a battaile, but constrained.

from

Plut. in Gracchis.

The Romans
sought occasion
of warre.

Plut. in Phocione

Plut. in Licurg.

Herodot.

In Phocione.

Dion. lib. 53.

In forma Comi-
sior, Written to
the Gouverneur
of a Prouince.

from them vntill fiftie five: neither was it lawful for any man to demaund an office or benefice, that had not carried armes ten yeares. And at one time there were two thousand citisens excluded from the Bourgeship, for that they had bene foure yeares together absent from the warres, except they which had bene dispensed withall vpon some iust cause (as *Titus Linius* saith) to the which discipline they were at the first constrained by the incursions of their bordering neighbours, being iealous of their greatnesse: But hauing afterwards brought all the people of Italie vnder their subiection, or treated alliances with them, and finding that a people giuen to armes, could not liue idly in peace without ciuill warres, they found it expedient for the good of the Commonweale, to seeke out new enemies, making warre sometimes to reuenge the wrongs done vnto their confederats: and sometimes defending them against their enemies, graunting triumphes, honourable estates, and great rewards to valiant captaines. The which was wisely ordained by the Senat, as an healthfull remedie against ciuill warres; the which *Bebius* the Tribune of the people did obiect vnto the Fathers, That warre was sowne vpon warre, that the people might neuer be at quiet: and therefore there was no distinction betwixt militarie charges and offices of iustice: So as one and the selfe same citisen, might be a valiant Captaine, a wise Senator, a good Iudge, and a great Orator: as it is said of *Cato* the Censor, who was well skilled in tillage, as it appeareth by his bookes, yet was he not ashamed to leaue his armes to goe to the plough; or to leaue the plough to plead, sometimes to be a Iudge, to sacrifice, or to play the Oratour before the people or Senat. And *Caesar* was high Priest, and in *Tullies* opinion a most excellent Orator, and the best captaine of his age. There were many not onely in Italie, but also in Greece, that excelled in the art of warre and policie. We read in *Iulius Pollux*, That the Athenians were bound to go to warre at foureteene yeares, and continued vntill threescore. Therefore *Aristides*, *Pericles*, *Phocion*, *Leosthenes*, *Demetrius* the Phalerian, *Alcibiades*, *Themistocles*, and infinit other Grecians, were like vnto the auntient Romans, and did excell in the art of warre and policie. But the wisest politicians did seperat the art of waire from other vocations. In the Commonweale of Creet euerie man was not allowed to carrie armes, but certaine speciall persons: nor in old times in Fraunce, whereas the horsemen had this charge, and the Druides were exempt. In Ægypt none but the Calasires were men of warre: the which *Licurgus* did allow. And therefore *Plato* diuided the citisens into three orders, Keepers, Men at armes, and Labourers: imitating the Ægyptians, who made three seuerall kindes of estates. By litle and litle the Athenians made a distinction of Armes, Policie, and Iustice; and so did the Romans. And truely in this short course of our life, there are few that doe excell in politike arts, but in both not any. It seemes that *Augustus* did first take from Senators, Proconsuls, and Gouvernours of Prouinces, the power to weare armes: so as in succession of time they called offices without armes dignities; as wee read in *Cassiodorus*, *Quamuis inquit, omnia dignitatum officia manu secludantur armata, & ciuilibus vestibus induti videantur, qui distractionem publicam docentur operari: tamen dignitas à terroribus eruatur, quæ gladio bellico rebus etiam pacatis accingitur: arma ista iuris sunt, non furoris*, Although (saith hee) that all offices of dignitie bee excluded from armed hands, and that they seeme to bee attired with ciuill garments, that are taught to labour in the difficulties of the Commonweale: yet the dignitie seemes to be pluckt from terrours, the which is giuit with a warlike sword, euen in the quietest times: these be the armes of Iustice, not of Furie. And consequently all nations by degrees, haue separated souldiours from schollers and men of iustice, beeing a difficult thing to excell in one art, but impossible in all; nor worthily to exercise many victories. Moreouer it was a thing almost impossible, to traine all the subiects of a Commonweale

A weale vp to armes, and to maintaine them in the obedience of the laws and magistrats. This was haply the cause which made king *Francois* the first, to cast the seuen legions of foot, which he had erected within this realme, in the yeare 1534, euery legion containing six thousand foot. And although that his sonne *Henry* did renew them twentie yeares after, yet was he forced to alter his opinion, seeing the Commonweale troubled, and mutinies growne in many places, by meanes of those legions. And yet in the opinion of straungers, and of those that haue iudicially examined the goodly ordinances that were made to that end, there was neuer any thing better instituted for the art of warre, the which is as necessitie in this realme, as in any part of the world, being cruell with warlike and mightie nations, which make a common practise to spoyle: like to a countrey of conquest. Yea if they had entertained but foure legions of foot, besides the troopes of horse, for the defence of the realme, and placed them as it were in garrison vpon the frontiers, they had prouided wisely for the safetie of the Commonweale. Fraunce is not the twentieth part of the Roman empire, for the guard whereof *Augustus Caesar* said, That fortie legions did suffice, being but fixe thousand men in a legion. The foure legions of foot and troopes of horse, paid in time of peace, according to the ordinance of king *Francois* the first, would not haue cost three hundred and fiftie thousand pounds starling, and yet is it halfe as much more as the legions had in *Augustus* his time: and the whole pay of the men at armes of Fraunce, in the yeare 1560, came but to 235300 pounds starling, as well the old bands, as the men at armes.

C And *Augustus* entertained fortie legions of horse and foot, besides his and the citie guards, and two nauies for the defence of both seas, keeping the empire safe from forren and ciuill warres, and all for twelue hundred thousand pounds starling a yeare, with an excellent description of all orders: the which other princes should propound vnto themselves, to imitat such as *Orosius*, *Dion*, *Tranquillus*, & other writers haue described it in their monuments: and yet was it not lawfull for the Roman souldiours (notwithstanding their small entertainment) to rob and spoyle: as we see at this day. This was the meanes to maintaine martiall discipline, to defend the rights of citizens, and allies, and to repell the enemy: Else if you be prest with warre, you shall be forced not only to abandon your neighbours, but also your countrey: or else in this extremitie you must vse vntrained souldiours, who become captaines before they were euer souldiours: or else forced with necessitie you must beg and buy forren succours at a deere rate. I doe not thinke that forren succours are to bee reiected, as many suppose: for there is no great empire can be augmented, without the succours of confederats, neither can they long resist the violence of an enemy: but I allow of those succours which come from allies, that are vnited together in an offensive and defensive league, as the Cantons of the Swislers be: or at the least in a defensive league, as they bee with the house of Fraunce. For by this meanes they are not onely the more strengthened; but they also take from the enemy those succours which he might draw from them, and the occasion from all men to make warre against either of them, vnlesse hee meane to be a professed enemy vnto them both. But I desire that the confederats should be tied by a mutuall bond, and altogether equall, to auoid the reproaches, quarrels, and inconueniences that grow of inequality. Those leagues and treaties be vnequall, when as one is bound to pay the diets or assemblies of their allies, although they did raise but one companie of souldiours, and notwithstanding bee tied to pay them a continuall pension, besides their entertainment in the time of warre, and succours of horse and foot at need without pension or pay. These treaties did our kings of Fraunce make with the Cantons of the Swislers, least other princes should draw them to their succours. It is also necessitie in an offensive and defensive league which is equall, That the

The entertainment of legions, very necessarie in a state.

Augustus kept fortie legions continually in pay.

The inconueniences, nor to haue trained bands.

It is good to haue mightie friends and allies in an equall league.

conquests should be common (as it hath alwaies been among the Cantons, when as they haue made warre in common) and that whatsoever is conquered by the one, should be priuate, wherein the antient Italians were circumuented by the Romans in their treaties; for the Romans hauing made an offensiue and defensiue league with their neighbors the Italians, they had alwayes for one Romaine legion two from their allies readie paid, and the Generall of the armie was alwaies a Romaine; and yet their allies had no pension nor entertainement from the Romans, nor any part of their conquests which were made in common, nor in dignities and offices, except some townes of the Latins; which was the cause of the sociall or confederats warre in Italie against the Romans, who were reduced to that extremitie, as they were forced to giue the right of a citisen, with part of their offices, and their voyces at elections, almost to all their allies in Italie. The Athenians with the like fraude did circumuent their neighbors and confederats, from whom they did exact tributes contrarie to their treaties, neither did they euer vndertake any warre but one without the forces of their allies, whereupon most of them fell off vnto the Lacedemonians when occasion was offered.

It may also be doubted whether it be fit to haue many allies, or mercinarie souldiers of diuers languages, for the difficultie there is to speake vnto them, and to incourage them by orations, a thing very necessarie in warre. But experience hath taught vs, that diuers nations and diuers tongues are easie to gouerne and leade, as *Anniball* did shew, hauing an armie consisting of Carthaginians, Mauritians, Numidians, Spaniards, Italians, Gaules, and Greeks, and yet in fiftene yeares space he neuer had mutinie in his camp, & obtained great victories; but if such an armie be once mutined, there is no meanes to pacifie it: this is the opinion of *Polibius*, a captaine of great experience, and Schoolemaster to *Scipio Affricanus*. That which we haue spoken touching the succors of allies, is not to be vnderstood that an estate should wholie relie vpon them, but a well gouerned Commonweale must be supported by her owne forces, and alwayes be stronger than the succours she hath from her allies: for he alwayes commands the state that is master of the force, and will make himselfe an absolute lord vpon the least occasion, if he haue any desire, the which neuer wants in ambitious minds. And if allies and confederates be to be feared in an others countrie when they are the stronger, what assurance can we haue of strange forces, which haue no offensiue nor defensiue league with vs? there is no doubt, but in danger they will be more carefull of their owne lines than of an other mans, and will attribute vnto themselves the profit and honor of the victorie, exhausting their treasures, and growing souldiers at their cost whom they serue. How often haue we seene the stranger being the stronger, make himselfe absolute lord ouer them that called him? We haue in our age the example of *Cairadin* that famous pirat, called in by the inhabitants of Alger, to expell the Spaniards out of their fort; hauing vanquished them, he slew *Selim* their king with all his familie, and made himselfe king thereof, leauing the state to *Ariadin Barbarousse* his brother. And *Saladin* a Tartar being called by the Caliph and the inhabitants of Caire to expell the Christians out of Soria, after the victorie he slew the Caliph; and made himselfe absolute lord, and least that they of the countrie should attempt any thing against him, he alwayes employed Tartarians and Circassians (that were slaues) in the warre, and for his guard, forbidding all others to beare any armes: and by this meanes he and his successors inioyed that kingdome, vntill that *Sultan Selim* Emperour of the Turks made himselfe lord thereof. By the same means the Herules, Gothes, and Lombards became lords of Italy, the French of Gaule, the English Saxons of Brittain, the Scottishmen of Scotland, hauing expelled the Britons and the Picts, who had called them to their succours; and the Turke of the empire of the East and the

Polibius and
Liuie.

The Romans circumuented their allies in Italy in their treaties.

Forren forces being the stronger, make themselves maisters ouer them that call them to their succours.

A realme of Hongary, being intreated by the Emperours of Constantinople and the states of Hongary. And the Emperour *Charles* the fift had reduced Germanie into the forme of a Prouince, and made it hereditarie by the same fraude that the rest, when as a part of Germanie vnder colour of religion called in the Spaniards and Italians, for hauing subdued the princes of Saxony, he labored to subiect the rest vnder the spanish empire, intending to make *Philip* his sonne king of Germanie, if *Henry* the second had not freed them with the forces of France, who for this cause was called by the Germanes in their printed bookes the protector of the Empire, and the deliuerer of the Princes. The which the princes of Germanie hauing foreseene, did bind the Emperour *Charles* the fift in the twelfth article of his oth, that he should neuer bring an armie of strangers into Germanie; but since the Emperours death the Electors did sweare neuer to choose a forraine prince Emperour; yet if the States of the countrie cannot agree vpon a soueraigne prince, it is better to haue a prince from a farre countrie than a neighbour. And for this cause the *Ætoliens* made *Antiochus* king of Asia their Generall for a yeare, the Tarentines king *Pyrrhus*, the Polonians *Henry* Duke of Aniou; *Leo* king of Armenia one of the children of *Andrew* king of Hongarie, to giue him his daughter and his estate: else it is to be feared that a neighbour prince chosen Generall but for a yeare, will make himselfe perpetuall, or if he be perpetuall, will grow hereditarie, taking from the subiects their right of election: or if the estate be giuen to one that is a king and to his heires, it is to be doubted he will make it a tributarie prouince to free his owne countrie from taxes and impositions, which happilie was the cause why they did not choose the Emperours eldest sonne king of *Polonia*, for it is not to be expected that he will euer beare that affection to strangers that he doth vnto his owne, but will easily abandon an others estate at need, to defend his owne. To conclude, in my opinion a Commonweale well ordained, of what nature soeuer, should be fortified vpon the approaches and frontiers, in the which sorts there should be good garrisons trained vp dayly to armes, hauing certaine lands appointed for souldiers the which they should enioy only for their liues, as in old time the fees and feudataries were, and at this day the Timars and Timariots in Turkie, the which are giuen vnto souldiers like vnto benefices, vpon condition they should be readie with horse and armes whensoever occasion of warre required: which lands neuer go vnto their heires, but are bestowed by the princes free gift vpon the most valiant souldiers, with a clause not to alienate them, that souldiers might not rob and steale as now they do with all impunitie. And vntill that these lands in fee may be disposed according to their first institution, it shall be fit to erect some legions of foote and horse according to the state and greatnes of euery Commonweale, that they may be bred vp in martiall discipline from their youth in garrisons vpon the frontiers in time of peace, as the ancient Romans did, who knew not what it was to liue at discretion, and much less to rob, spoile, and murder, as they do at this day, but their camp was a schoole of honor, sobriety, chastitie, iustice, and all other vertues, in the which no man might enuege his owne iniuries, nor vse any violence. And to the end this discipline might be obserued, as they do at this day in the Turks armie, it is necessarie that good Captaines and souldiers be recompenced, especially when they grow aged, with some exemptions, priuiledges, impunities, and rewards, after the manner of the Romans. And although the third part of the reuenues be employed about the entertainment of souldiers, it were not too much: for thereby you should be assured of men at need to defend the state, especially if it be enuied and enuironed about with warlike nations, as those people be that are situate in the temperate and fertile regions of France, Italie, Hongarie, Greece, Asia the lesse, Soria, Egiptr, Persia, and the ilands lying in the Mediterranean sea: for the nations

The conclusion
of the proposition.

Those which inhabit in fertile countries, being environed by greedy enemies, haue need to be warlike.

lying vpon the extremities of hot and cold, as the Ethiopians, Numidians, Negros, Tartars, Gothes, Muscouites, Scottishmen, and Swedens, haue no neede of great forts, not to entertaine any legions in time of peace, hauing no enemies but such as they make themselues; the people of the North being by nature too warlike, all horsemen, or for the most part, and giuen to armes, without any need to traine them vp in it, vnlesse it be to discharge the countrie, or as I haue said, for that they cannot be kept in peace. And to the end the state may not be brought in danger by any treacherous and faithlesse allies, or that strangers suck not the bloud of the subiects growing warlike at an others charge, being readie to inuade the estate, let all offensive and defensive leagues and alliances be equall, receiuing as great succours at neede as they shall be bound to giue; and yet the succours of the confederate must not be such as they may force or prescribe a law. Moreouer, it must not be allowed for all other subiects to carrie armes, least the laborer and handicrafts man should take a delight in theeuing and robbing, leauing the plough and shop, hauing no experience of armes, and when as they are to march against an enemy, they forsake their colours and flie at the first charge, putting a whole armie in disorder, especiallie the handicrafts man, and they that sit alwaies, being bred vp in the shadow, whom all antient and wise Captaines haue held vnfit for warre, whatsoeuer Sir *Thomas Moore* saith in his *Commonweale*. Seeing that wee haue discoursed of men of warre, of forts and of succours that are drawne from them that are in league, let vs now speake of the suretie of treaties and leagues betwixt Princes and Commonweales.

Handicraftsmen
vnfit for warre.

CHAP. VI.

*Of the suretie of alliances and treaties betwixt Princes and Commonweales,
and of the lawes of armes.*



His treatie depends of the former, the which ought not to be omitted, seeing that neither lawyer nor politician hath euer handled it: and yet there is nothing in all affaires of state that doth more trouble Princes and Commonweales, then to assure the treaties which they make one with an other, be it betwixt friends or enemies, with those that be newters, or with subiects. Some assure themselues vpon their simple faith mutuallie giuen, others demaund hostages, and many require some places of strength: some there are which rest not satisfied if they disarm nor the vanquished for their better assurance, but that which hath been held the strongest assurance, is, when it is confirmed by alliance and neerenes of bloud. And euen as there is a difference betwixt friends and enemies, the conquerours and the conquered, those that are all in power and the weake, the prince and the subiect, so in like sort their treaties must be diuers, and their assurances diuers. But this maxime holds generall and vndoubted, that in all kinds of treaties there is no greater assurance then that the clauses and conditions inserted in the treaties be fit and sortable for the parties, and agreeing with the subiect that is treated of. There was neuer any thing more true then the aduice of that Consull which said in open Senat, *Neminem populum diutius ea conditione esse posse, cuius enim penitet*. No people can continue long in that estate whereof they are wearie. The question was touching the Priuernates whom the Romans had vanquished, for that they had broken the league, they demanded of their Ambassador what punishment they had deserved? The paines, answered he, of such as should liue in libertie. Then the Consull replied, If we pardon you, shall we be assured of a peace? the

Plautius Consul,
apud Livium li. 8

- A** the Ambassador answered, *Si bonam dederitis, & fidam & perpetuam, sin malam haud diuturnam*: If you giue vs a good peace, you shall haue it kept faithfullie and perpetually; if a bad one, it shall be soone broken. The yonger Senators found these answers too proud and haughtie, but the wiser sort said, That this people which contended only for their libertie deserued to be made citisens of Rome, else they would neuer be good subiects, nor trustie friends: and according to this aduice the decree of the Senat did passe in force of a priuiledge, and was confirmed by the people; and yet had they yeelded themselues to the mercie of the Romans, as all the other cities of the Latins their allies had done, who had conspired against the Romans. The assurance which the antient Romans tooke of those whom they would make vbiect after they had
- B** vanquished them, was to seaze vpon all their places of strength, to put in garrisons, to receiue hostages, and to disarme the vanquished. *Mos autem, inquit Liuius, Romanis vetustus erat, cum quo nec foedere nec equis legibus iungeretur amicitia, non prius Imperio in eum tanquam pacatum uti, quam omnia diuina humanaque deditisset, obsides accepti arma adempta, praesidia urbibus imposita forent*: It was an ancient custome among the Romans towards those with whom they had not ioyned in league, nor contracted friendship vpon equall tearmes, neuer to gouerne them peaceably, vntill they had yeelded vp all, deliuered hostages, disarmed them, and put garrisons into their townes. For we may not thinke euer to keepe that people in subiection which hath alwayes liued in libertie, if they be not disarmed. To take away part of their libertie, is to incense them
- C** more, than if they were wholie subiected: as *Lewis* the 12 did vnto the Geneuois, who had put themselues vnder his protection when they were in danger, which being past, they reuolted, and allied themselues vnto his enemies; against whom he went in person, besieged them, and forced them to yeeld; then he condemned them in two hundred thousand crownes, putting a strong garrison into their fort called the Lanterne; yet he suffered them to liue after their owne lawes and with their old magistrates, taking only from them the stamp of their coine. It had been farre better either to haue made them good subiects, or to haue restored them to their perfect libertie: for king *Lewis* the 11 to whom they had giuen themselues, made answere, That he gaue them vnto the diuell: refusing to receiue a yearely pension for the protection of such disloyall
- D** allies, who had reuolted from king *Charles* the 6, hauing receiued them into his protection to defend them against the Venetians. And the Earles of Sauoy receiued those of Berne into their protection, beeing opprest by the lords of Bourdorg; but the feare being past, they desired nothing more than to be freed from their protection, the which the Earle willinglie granted, chusing rather to haue faithfull fellowes, than faithlesse allies. But king *Francis* the first in my opinion committed a greater error, who refused two hundred thousand crownes in his necessitie, the which the Geneuois offred him to be freed from his protection, giuing him to vnderstand that vpon the first occasion they would reuolt, as they did after the battaile of Pavia, and afterwards expelled the garrison which remained in their fort, and razed it to the ground: he should either haue
- E** made them faithfull and free confederats, being tied together by an equall league; or els haue made them subiects, and so haue taken from them the gouernment of their estate.

A free people is neuer kept in subiection, vnlesse they be disarmed.

A Popular estate must either be wholly subiect, or set at free libertie.

But some one will say, that it is a breach of faith to infringe the treaties, and to change the protection into a souerainetie. I answere, that it is and alwayes shall be lawfull for the Patron to make himselfe absolute lord, if the client be disloyall. We read that *Augustus* made those people subiect which had abused their libertie. And therefore king *Charles* the 9 (hauing discovered the secret practises of the Spaniards with the inhabitants of Thoul, Metz, and Verdun) was inforced somewhat to re-

Imperiall cities
made, subiect vn-
der colour of
protection,

Hungary made
subiect vnder
shadow of pro-
tection,

The difference
betwixt tribute
and pension.

Why the king of
France gaue pen-
sion vnto the
Swissers,

The mightie are
bound to defend
the weake.

straine their liberties, for in all treaties of protection there is an expresse clause, That those which are in protection shall retaine their estate and soueraigntie: but there is no great assurance if the Protector holds his clients forts, for that he may make them subiect when he pleaseth. Who knowes not that the cities of Constance, Vtrech, Cambray, Vienna in Austria, and many others which haue put themselves in the protection of the house of Austria, haue now lost their liberties. The kingdome of Hongarie hath runne the same fortune: for after the death of king *Ihon*, the estates of the countie sent Ambassadors to the Turke to receiue their yong king and the realme into his protection, fearing least *Ferdinand* should make himselfe lord thereof, pretending the realme to belong vnto him by vertue of certaine treaties made betwixt the house of Austria, and the kings of Hongarie; but those treaties had no sure ground, for the realme being electiue, the king could not take this prerogatiue from the people without their consent: and if the house of Austria lying so neere and being so famous for their glorious deeds, had made offer of any one of their princes to haue bin chosen, they had caried it without any difficultie; but the estates had rather make choise of *Mathew Coruin* for their king, than to lose the right of election: and although that the new king and the estates of the countie did ratifie the former treaties with the house of Austria, yet were they not kept, for that they seemed to be made by force against all law and reason, wherefore they did chuse rather to put themselves vnder the Turks protection; who soone after made himselfe absolute lord, knowing well that *Ferdinand* would carie it, who notwithstanding had some part, but he was forced to agree with the Turke, paying yeerely a good summe of money, which the Emperour tearmes a Pension, & the Turke a Tribute, vinting that the Emperour is his Tributarie. But there is a great difference betwixt a pensionar and a tributarie, for tribute is paid by the subiect, or by him who to inioy his libertie paies that which is promised vnto him which hath forced him thereunto. A pension is voluntarily giuen by him that is in protection, or by him that is equall in a treatie of alliance to haue peace, and to withhold the pensionar from ioyning with his enemies, or to haue succours when he shall require them; as in the treaties of equall league betwixt the kings of France, and the Cantons of the Swissers, vpon that condition that our kings might at their pleasures leaue an armie of Swissers for the defence of this realme, and should likewise help them against the incursions of their enemies: and for that it was needfull to make many leuies of Swissers for the guard of this crowne: fearing also least the enemies thereof should draw them from the societie of the French, our kings haue willingly graunted a thousand crownes yearely pension to euery Canton, notwithstanding that king *Francis* the first, three yeares before the treatie, had gotten of the Swissers at Marignan one of the goodlyest victories that euer Prince obtayned. And although we haue sayd, That protection rightlie was that, when as one takes the defence of another freely without any reward, for that the mightie are bound to defend the weake against the injuries of their enemies: yet for the assurance of treaties and protections, they vse to receiue a pension from him that puts himselfe into protection, to the end that the Protector beeing bound not onely by his oath, but also in receiuing a pension, should bee more readie to succour his adherent a need. This was held by the Antients, against the honor and maiestie of the Empire: but since that, they haue confounded honestie with profit, they haue begun to make marchandise of protection; whereof *Saluian* of Marseilles doth greatlie complayne, saying, That the weake putting themselves in the protection of the mightie, giue all they haue to be protected. It is well knowne that they of Luques, Parnia, Sienna, and manie others, pay great pensions to be protected: And oftentimes a pension is payed to

- A the protector, not so much to warrant him from his enemies, as from the protector himselfe: as it happened after the battaile of Pauiā, all the potentates of Italie turned their vowes to the Spanyard, and to free themselues from inuasion, they put themselues into their protection. Amongst others the Luquois payed vnto the Emperour *Charles* the fift, tenne thousand ducates: the Siennois fiftene thousand, and the duke of Ferrate fiftene thousand, the which he paid to the Viceroy of Naples, vnder colour of lending, without hope of restitution, being in the protection of the French. But it is shamefull and dishonourable, to take into protection, to receiue a pension, and to abandon the client in his great need. Not long since *Sigismund Augustus* king of Poland had taken the protection of the inhabitants of Liffland, against the king of Moscouia: but hauing made a league with the Moscouite, he is not onely said to haue abandoned his clients, but to haue betrayed them vnto their enemy. But if he that is in protection as a soueraigne, and in subiection as a vassall and subiect, demands aid of his protector, he hath double reason to defend him, especially if they attempt any thing against his honour and person: as it happened in the yeare 1563, in the Moneth of March, when as the Inquisition at Rome sent out a Citation against the queene of Nauarre, to appeare personally at Rome within six moneths, and not by any procurator, vpon paine of confiscation of all her goods, estates, and seignuries. King *Charles* the ninth tooke her into his protection, saying, That she was necessarily allied vnto him in blood, that she was a widow, and tied to the house of Fraunce, a vassall and subiect vnto the king; and that by treaties of popes, and generall counells she might not be drawne out of the realm for what cause soeuer: seeing that pope *Clement* the seuenth sent two cardinals into England, to heare king *Henrie* the eight, touching the diuorce betwixt him and *Katherine* of Spaine. And for that the Citation and threat made vnto such a princeesse, toucht his honour and the estates, the king of France did aduertise all his neighbour princes and allies, by his ambassadors, giuing the popes legat to vnderstand, That his maister should not take it ill, if hee did punish those that were the cause of this enterprise: as *Lewis* the young did in the like case to *Thibaud* earle of Champagne, who had caused the earle of Vermandois to be censured by the pope: intreating the pope moreouer, to reuoke his sentences giuen as well by himselfe, as by his deputies: else he should not hold it strange if hee vsed the meanes which had bene accustomed in like cases.
- D

It is dishonourable to abandon him you haue taken into protection.

By the commandement of pope Pius the sixt.

- But it falls out oft, that those which are receiued into protection, after the daunger is past, make warre against their protector: We haue many examples, and without further search, in our memorie we haue seene many princes of Germany cast themselues into the protection of king *Henrie* the second, to be freed from the captiuitie and slavery which did threaten them: the king receiued them into protection, and in stead of taking any pension, he gaue them two hundred thousand crownes towards their wars, and leuiued an armie of threescore thousand men at his owne charge for the libertie of the empire. And although by the 34 article of the treatie of Protection, it was concluded, That the confederat princes should suffer the king to seize vpon the imperiall townes, speaking French, yet the emperour was no sooner chased away, & the empire restored to her former beautie, by meanes of the French, but the chiefe of the confederats and adherents, forsooke the kings protection: and which is more, tooke armes against their protector. And at an imperiall diet, held in the yere 1565, it was decreed, To send an ambassage into Fraunce, to demand those three imperiall townes which are in the protection of France, Thoul, Verdun, and Metz, although that Verdun hath for these hundred and sixtie yeares bene in the protection of Fraunce, paying thirtie pound sterling onely for a yearely pension. But this imperiall decree tooke no effect;
- E

The Duke of Saxonie.
The Landgraue of Hesse.
The Marquesse of Brandebourg.

Those which are
in protection
haue need of
greater securitie
than the pro-
tector.

and the king was aduertised by letters of the first of December 1559, from a pensioner F
of his, That the estates of the empire would be wel pleased, to haue the king hold those
townes of the empire, doing homage for them: which shewed, that he held not these
townes but vpon good and iust considerations: And for that the protector cannot
be inuaded by him that is in protection, being alwayes the weaker: those which put
themselves into protection, haue need of greater securitie than the protectors, least vn-
der a colour of patronage they loose their liberties.

The assurance of
the league of
protection.

Some one may obiekt, That it is an absurd thing to demanda securitie of the prote-
ctor, seeing that the client puts himselfe in his protection: and by an auntient decree
of the court of parliament, the vassal demanding securitie against his lord, was reiected.
But the deceit and treacherie of man hath so farre extended, as the wisest haue held it G
necessarie to succor the vassall against the violence of his patron, whom the soueraigne
prince shall take into his safegard, if there be iust cause: with greater reason the client is
to seeke all the securitie that may be from the protector. The first assurance depends
vpon reasonable conditions annexed vnto the treatie: the second of the letters of prote-
ction, which the protector must deliuer vnto the clients, to testifie, That all the rights
of soueraignie and maiestie remaine absolute vnto the client: and this is to be done in
Monarchies, at the comning of a new prince: for the protection is dissolued by the
death of the client, as well as of the patron: neither is the succession tied vnto the pro-
tection. And therefore the inhabitants of Mets, after the death of *Henry* the second, H
demanded to haue new letters of protection from *Charles* his sonne: not for that they
should be more safe from their enemies, but to shew that they were not in subiection,
the which is generall in all treaties made betwixt princes, and it hath beene alwayes
obserued, to renew leagues and alliances, which else should be dissolued by death. So
Perseus king of Macedon, after the death of his father, sent an ambassage to the Senat
of Rome, to renew the league they had with his father, and to the end he might be cal-
led king by the Senat. But when as the Senat offered to renew the same conditions of
the league which they had with *Philip* his father, *Perseus* refused them, saying, That the
treatie made with his father, did nothing concerne him: and if they would contract a
new league, they must first agree vpon the conditions. So *Henrie* the seuenth, king of I
England hauing receiued the duke of Suffolke from the Archduke *Philip*, father vnto
the emperour *Charles* the fift, vpon condition, That he should not put him to death, he
kept his faith; but he being dead, his sonne *Henry* the eight caused his head to bee cut
off, saying, That he was not tied vnto the treatie which his father had made.

A league made
with the father
binds not the
sonne.

But for that protections are more dangerous for the adherents or clients, than all
other treaties, it is needfull to haue greater securitie: for oft times wee see, that for want
of securitie the protection is chaunged into a seigneurie. And sometimes hee thinkes
himselfe well assured, that makes the wolfe the keeper of his flocke. And therefore
protections must be limited to a certaine time, especially in Popular and Aristocraticall
estates, which neuer die. And therefore the inhabitants of Geneua hauing put them-
selves in the protection of them of Berne, would not haue the protection continue K
about thirtie yeares, the which did expire in the yeare 1558, and then the Geneuois
made an equall league with the Bernois, the which was not without great difficultie,
being almost brought into subiection, by the practises of some citisens that were exe-
cuted. Since the first impression of these books, a Printer of Geneua put them sudden-
ly to the presse, making an aduertisement in the beginning, wherein hee doth controll
some places: but he deserues to be punished by the Seigneurie: First, for that hee hath
attempted against another mans workes, who hath spoken as honourably of Geneua,
as of any Commonweale whatsoever. Secondly, for that he hath infringed the ordi-
nances

A nances of the Seigneturie of Geneva, published the fift of Iune, 1559: whereby it is expressly defended, To make any inuētiue against such authors as are set forth. For if the author deserued any reproachfull words from the Printer, he should not haue printed them, and much lesse set them to sale. But as for his reprehensions all men of iudgement haue esteemed them as they deserue. And heretofore this good Printer hath bene answered, who maintaines, That it is lawfull for the subiect to kil his prince, kindling by this meanes the fire of sedition and rebellion in all places. And whereas hee saith, That Geneva hath not bene in the protection of Berne, the author refers himselfe vnto the treatie that was made in the yeare 1536. But the fault growes, for that they knew not what protection was, which our auntient treaties call *Auouoison*, and in Latine *Aduocatio*. The like may be said of Rotuile, and of Mulhouse, which are allied with the Cantons of the Swissers, but it is an alliance of protection. As in like case the abbat and towne of Saint Gall, which are also allied, but yet in the protection of Zurich, Lucerne, Swits, and Glaris, as I haue seene by the treaties which the abbat of Orbez, (hauing remained long ambassadour in Swisserland) imparted vnto me from the first vnto the last: those of Valdaost, were in like daunger to them of Geneva, for the Valoisians would haue made them subiect, vnder a colour of protection, in the yeare 1559, if the king of Fraunce had not defended them. And euen as the vassall is freed from the fealtie and homage which he oweth vnto his lord, if hee bee ill intreated by him, as it was adiudged by the court of parliament, for the lady of Raiz against the duke of Brittain: in like sort the client is exempt from the power of the protector, if he doth intringe and breake the lawes of protection. But the chiefest caution and assurance, is, when as the protector is not ceised of the places of strength, nor hath not any garrisons in his clients townes. There is nothing more true, than what was spoken by *Brutus* the Tribune of the people, vnto the nobilitie of Rome, That there was one onely assurance for the weake against the mightie, which was, That if the mightie would, they could not hurt them: for that ambitious men that haue power ouer another, neuer want will. And therefore it was wisely prouided by the Scots, when as they came into the protection of the English, made in the yeare 1559, That the queene of England, who tooke their protection, should giue hostages, the which should be chaunged euery six moneths: and that she should not build any forts in Scotland, but with the consent of the Scottish men. Wherein the Athenians did erre, who hauing put themselues first into the protection of *Antipater*, then of *Cassander*, of *Ptolomey*, and in the end of *Demetrius* the Besieger, they suffered their protectors to seize vpon their forts, and to put in garrisons, who presently made themselues soueraigne lords. The which *Demosthenes* had well and wisely foreseene, when as one commended vnto him the mildnesse and courtesie of *Antipater*: hee answered, Wee desire no lord and maister, how mild and gracious soeuer: and him did *Antipater* pursue euen into Italie, and slue him. But the Athenians were circumuented by the same fraud as they had done their associats: For the Persians being expelled out of Greece, all the cities of Greece made an equall league, for the defence of their estates and liberties, concluding, That they should haue one common treasurie in *Apolloes* temple, whither all the associats should yearely bring their money, that an account might bee giuen of the receits and expences by a common consent. Euerie citie sent ambassadours for the swearing of their league: *Aristides* surnamed the Iust, came for the Athenians, who after solemne sacrifice, did cast peeces of burning yron into the sea, calling heauen and earth, and all their gods, to witnesse, and saying, As this fire is quencht in the water, so let them suddenly perish, that shall breake their faith. But the Athenians seeing the common treasure great, fortified their citie ports, & passages therewith, and made pro-

The client is freed from the protection, if the protector make any breach.

The league broken by the fraud of the Athenians

The cities of
Greece subiected
vnder colour of
alliance.

uision of naue, ships, & gallies well armed. And then finding themselves the stronger, F they changed the equal league into protection, & protection into subiection. So as the appellations of all the confederat cities came vnto Athens; as we read in *Xenophon*, & all charges and impositions were taxed by the Athenians, who had freed themselves from all imposts: the which chanced for that the Athenians trained their subiects vp in arms, at their confederats costs. And so did the Lacedemonians to all their confederats, whom vnder colour of an equall league, they imperiously forced to obey: for that for the most part they were all mechanike people. And contrariwise in Lacedemon there was nor any Spartan that was an Artisan, being against *Licurgus* his lawes: so as the citie of Sparta was farre more mightie, and held in a manner all their other allies in subiection; as we read in *Plutarch*. We see that the Latines fell almost into the like diffi- G cultie, after that they had made an equall league with the Romans, against whom they tooke armes: for that the Romans commaunded them imperiously as their subiects: whereof *Setin* captaine of the Latines complained, saying, *Sub umbra fæderis equi seruitutem patimur*, We are (saith he) slaues vnto the Romans, vnder colour of an equall league. And a little after, *Consilia populorum Latinorum habitæ, responsumque non ambiguum imperantibus milites Romanis datum, abstererent imperare ijs, quorum auxilio egerent: Latinos pro sua libertate potius quam pro alieno imperio arma laturos*, The Latines hauing held a councell, and giuen a plaine aunswere to the Romans which commaunded the souldiours, they wished them to forbeate to commaund them whose aid they needed: the Latines would rather take arms for their owne liberties, than for anothers H rule and empire. We read, that *Licortas* captaine generall of the Acheans, vsed the like complaints to *Appius* the Consull, after that the Acheans had treated an equall league with the Romans, *Fædus Romanorum cum Acheis specie quidem æquum esse: re precariam libertatem, apud Romanos etiam imperium esse*, The league which the Romans haue with the Acheans, in shew it is equall, but in effect it is an intreated libertie, and with the Romans it is emperie or absolute command. For the same cause the Samnites made warre against the Romans, renouncing their league: for that vnder a colour of societic, they would commaund absolutely ouer them. And for the same reason the cities of Italie allied vnto the Romans by an equall league, reuolted from their alliance for that the Romans drew from them an infinit succour of men and money, so that in I all their warres they had two of their allies for one Roman, and by that meanes conquered the greatest empire that euer was, and yet their associats had no part of the conquest, but some pillage, after that the Romans had taken what they pleased: which was the cause of the confederats warre in Italie, the which had no end, vntill that the allies were made citifens of Rome, to haue part of honours and offices. And yet what equall league soeuer the Romans made, they were still the stronger, & held their allies as it were in subiection. How imperiously the Romans behaued themselves towards their confederats, the speech of the Consull *Appius* vnto the Generall of the Acheans, contending for the libertie of the Lacedemonians, is a sufficient testimonie, saying, *Dum liceret voluntate sua facere gratiam inirent, ne mox iniiti & coacti facerent*, Whilest K they might do it of their owne free will, they should deserue thanks; else they should be soone forced thereunto against their wills. And in the treatie made with the *Ætoli- ans* (to whome they would not graunt any peace, vnlesse they submitted themselves wholly vnto their mercie) there are these words, *Imperium maiestatemque populi Romanorum gens Ætolorum conseruato sine dolo malo; hostes eosdem habeto quos populus Romanus, armaque in eos fert: & bellum pariter gerito, obsides arbitrio Consulis 40, & talenta quinquaginta dato*, You *Ætoli- ans* shall maintaine the empire and maiestie of the people of Rome, without any fraud or guile, their enemies shall be yours, you shall carry arms, and

The cause of the
sociall warre.

Lin. lib. 56.

A and make warre against them with the people of Rome: you shall giue fortie hostages at the Consuls discretion, and fiftie talents. They left them the free government of the state, but with such conditions, as they were little better than subiects; hauing vnfurnished them of men and money, and taken the best amongst them for hostages. These words of the league, *Maiestatem Romanorum conseruato*, Maintaine the maiestie of the Romans; shewes, that the league betwixt the Romans and the Ætolians was vnequall, and that the one did respect the maiestie of the other with all honour. And although the Romans gaue lawes vnto the Ætolians, yet they did enioy their estate and soueraigntie: as they did in all Greece, which they freed from the power of the kings of Macedon. And after that they had vanquished and taken *Perseus* king of Macedon,

B they freed all the people, and discharged them of the moitie of their imposts, suffering them to gouerne their owne estates: and for their better assurance, they commaunded vpon paine of death, That all Gouvernours, Captaines, Lieutenants, Presidents, Councillours of state, Gentlemen in ordinarie, and euen the kings Pages and Footmen (*qui seruire regibus humiliter alij superbe imperare consueverunt*, Which had beene accustomed to serue their kings humbly, and to commaund others imperiously) to depart out of Macedon, and to passe into Italy. And not content therewith, they diuided Macedon into foure prouinces, forbidding vpon paine of death, That the one should haue no acesse, communication, traffique, commerce, nor alliance of marriage, with another: and moreover, that the moitie of those charges which were paid to the king,

C should be carried yearely into the treasure of Rome. And so the people of Macedonie receiued a law from the victor, and remained tributaries, yet they enioyed the government of their estates. The Consull *Mummius* vsed the like policie, hauing subiected the estate of Achaia, he rased Corinth, and abolished the societies & communalities of Greece; yet he suffered the free people to enioy their laws and magistrats, easing them of part of their tributes: the which was a subtile meanes to draw vnto the amitie of the Romans all the people which had bene held in slauiish subiection, and to make tyrants to tremble, or at the least to force soueraigne kings and princes to gouerne their subiects iustly, seeing that the prize and reward of the Romans victorie, was the liberty of people, and ruine of tyrants. Whereby they reaped the greatest honour that men might in this world, To be iust and wise.

Macedonie made
tributarie to the
Romans.

The fruits of the
Romans victories

D It is also a double wrong which the lord receiues from his subiect, hauing put himselfe in the protection of another, and from him that hath receiued him, if hee hold not of him by fealtie and homage, or hath some liuing in the protectors countrey. And for that *Charles* of Lorraine bishop of Metz, put himselfe into the protection of the empire, and obtained a safegard for him and his, of all that which he held in the country of Melsin, in the yeare 1565, the king of Fraunce his lieutenant opposed himselfe to the publication of this safegard: whereby he (hauing recourse vnto the empire) brought in question his obedience due vnto his prince, the protection of Metz, & his kings right. And yet many princes receiue all that seeke it, without discretion, the which is the cause of many inconueniences, if the protection be not iust. It is a dangerous thing to vndertake the protection of another prince, but it is more dangerous to vndergoe it without a iust cause, being the chiefe subiect of all wars, & the ruine of cities and kingdoms, when as subiects fall from the obedience of their naturall prince, to obey another. And generally all treaties of alliance made with a prince or warlike people, draw after them a subiection and necessitie to take armes alwayes for his succour, and to run the same fortune: as the Romans confederats, who by their treaties were bound to furnish men and money for their succours, and all the profit and honour of the conquests came vnto the Romans. They make no such treaties at this day, yet the victor prescribes a law

Neutralitie is
sometimes profit-
table.

How a prince
maintaines his
greatnesse.

Neutralitie is
many times dan-
gerous.

Linus lib. 5.

Neutralitie is
oftentimes the
ruine of princes.

Iud. c. 13.

vnto the vanquished. And therefore many haue bene of opinion, That it was expedient for a prince to be a Neuter, and not to meddle with any other princes warres: the chief reason is, That the losse is common, but the fruit of the victorie is his only whole quarrell they maintaine; besides, he must declare himselfe an enemy to those princes which haue not wronged him: but he that shall stand indifferent, is oftentimes a means to reconcile enemies: and maintaining himselfe in the loue of them all, hee shall reape thanks and honour of euerie side. And if all princes be in league one against another, who shall mediat a peace? Moreover it seems there is no better meanes to maintaine the greatnes of an estate, than to see the neighbor princes ruine one another. For the greatnes of a prince (to speake properly) is nothing els but the ruine & fall of his neighbors: & his strength is no other thing, but the weaknesse of another. And therefore *Flaminius* said vnto the Consull *Attilius*, intending to ruine the citie of the Aetolians, That it was not so expedient to weaken the Aetolians, as to oppose against the greatnesse of young *Philip* king of Macedon. These reasons may helpe them that defend neutralitie: but it seemes they are subiect to greater inconueniences. First in matter of state it is a maxime, That he must either be the stronger, or of the stronger faction (and this rule doth not admit many exceptions, be it in the selfe same Commonweale, or among sundrie princes) els hee must alwayes remaine a prey at the victors discretion: as the Roman ambasadour said vnto the Acheans, whome *Antiochus* king of Persia perswaded, That they would remaine neutrals betwixt him and the Romans. And it seemes, that whosoever will maintaine himselfe, must of necessitie bee a friend or an enemy. Whereof we haue an example in *Lewes* the eleuenth, king of Fraunce, against whom they made warre of all sides, so long as he continued a newter: but after that he had allied the Swissers more strictly among themselves, & the citie of Strausbourg with them, and that he had entred into that league, neuer any enemies durst assault him, (as *Philip de Commines* saith:) for neutralitie, *Neque amicos parat, neque inimicos tollit*, It neither purchaseth friends, nor takes away enemies: [as an auntient captaine of the Samnites said. And the like conclusion was made among the estates of the Aetolians, by *Aristemus* their Generall, saying, *Romanos aut socios habere oportet, aut hostes, media via nulla est*, We must haue the Romans either confederats or enemies, there is no meane. We haue infinit examples in al histories: *Ferdinand* king of Aragon found no better means to pull the kingdome of Nauarre from *Peter* of Albret, than in perswading him to bee a neuter betwixt him and the king of Fraunce, that hee might bee abandoned at need. And the inhabitants of Iabes remaining neutrals, and not ingaging themselves in the warre which the people of Israel made against the tribe of *Beniamin*, they were all slaine, and their townes rased. As also the Thebans fell into great daunger, being neutrals, when as king *Xerxes* came into Greece. As in the like case the towne of Lays in Soria, was surpris'd, spoiled, sacked, and burnt, by a small troupe of the tribe of *Dan*: for that (as the historie saith) they were not in league with any soueraigne prince or state. And without any further search, the Florentines after they had left the alliance of the house of Fraunce, refusing to enter into league with the pope, the emperor, the king of England, and the king of Spaine, against the king of Fraunce, they soone felt the fruits of their neutralitie.

But it were an vnjust thing, will some one say, to ioyne in league against France, with whom they had been so strictly conioyned: I confesse it, so should they not haue left it at need as they did; for the league is not only broken if thou beest an enemy to my associates, or if thou ioynest with my enemies, but also if for feare thou doest abandon thy associates, being bound by the league to succour them; as a Roman Ambassador said, *Si socios meos pro hostibus habeas, aut cum hostibus te coniungas*, If thou takest

my

A my associates for thine enemies, or ioynest with mine enemies. Yet some may say, that neutralitie may well be granted with the consent of other princes, which seemeth to be the best support without any feare of the victors. The estates of Lorraine, Bourgongue and Sauoy haue maintained themselves in a free peace, so long as they had an alliance of tranquillitie, but after that the Duke of Sauoy had once vnited himselfe to the Spanish faction, he was expelled his countrie by the french. But there is a great difference to be a neuter without the friendship either of the one or the other, and a neuter allied to both parties, and these are farre more assured, than if they were enemies to both factions: for they are free from the victors inuasion, and if there be any treatie of peace betwixt both parties, they are comprehended of either side. And if neutralitie be commendable in that manner, as I haue said, it is farre more commendable in a Prince that doth exceede all others in power and dignitie, that he may haue the honor to be the vmpire and moderator; as it happens alwaies, that quarrels betwixt Princes are decided by friends that stand indifferent, and especially by those which exceede the rest in power and greatnes, as heretofore many Popes which knew well how to mainetaine their ranke, and reconcile Christian Princes, haue reaped honor, thanks, and assurance for their persons and estates, and those which haue followed either the one or the other partie, haue drawne after them the ruine of other Princes. It was thought very strange in Spaine that Pope *Alexander* the 6 a naturall Spanyard, should enter into league with *Lewis* the 12, king of France against the Spanyards; and when as the Spanyards had the better in Italie, he told the french Ambassador that he would remaine a neuter, and be a common father to both parties, but it was too late now to make a shew to quench that fier which he himselfe had kindled. As in the like case the Duke of Alua Viceroy of Naples being aduertised of a request made by the Procurator of the chamber of Rome against the Emperour, touching the confiscation and reuision of the realme of Naples to the reuenues of *S. Peter*, he did write vnto Pope *Theatin*, who had entred into league with the house of France, that he should remaine as neuter for the dignitie which he had aboue all other Christian Princes, but the truce being broken, the armies in field, and their ensignes displayed, the end was miserable, for the Pope renounced the league, leauing the french in their greatest neede, and it was concluded by a treatie which he made with the Spanyard that he should continue neuter. Neuter was the hatred of any Prince so pernicious vnto his enemy, as the fauour of *Theatin* was then vnto the french, without the which they had not bin reduced to such extremitie, as in one day to lose all they had conquered in thirtie yeares. It is more strange; for that the memory is more fresh of the like errors committed by pope *Clement* the 7, fauoring one of these princes against the aduice of *Lewis Canosa* his Ambassador, who aduertised him by letters written out of France, that the greatnes and suertie of his estate was to shew himselfe a neuter: so soone after he see himselfe prisoner to the imperials and the citie of Rome sackt after a strange manner, and both himselfe and his Cardinals ransomed at the victors discretion. I enter not into the worthines of the fact, neither is it in question to know who deserued most fauour, but only, that hee which alone may be iudge and moderator of honor, should neuer make himselfe a partie, although he were assured that he should incurre no danger, much more when his estate is in question, and that he can haue no securitie but hazard by the victorie. There are others who to win fauour of all sides forbids their subiects by publike proclamations to giue ayde or succour to the enemies of their associates, and yet vnderhand they suffer them to passe, yea sometimes they send them, so did the *Aetolians*, saith *Titus Linius*, *Qui inuentum aduersus suos socios, publica tantum auctoritate dempta, militare sinunt, & contrarie sepe acies in utraq. parte Aetolica auxilia habent*, Which

The difference
of neutralities.

In what case one
should be neuter

Allies are some-
times dangerous.

suffer there your yong men vnderhand to goe to warre against their owne confederates, and oftentimes troupes of Ætolians are seene in either armie. Such allies are more dangerous than enemies. But it may be some one will say that it is dangerous to suffer a Prince so to increase in power as he may giue law vnto the rest, and inuade their estates when he pleaseth. It is true, and there is no greater occasion then that, to induce a neuter to seeke by all meanes to hinder him; for the suretie of Princes and Commonweales consists in the equall counterpeeze of power. So when as the Romans made warre against king *Persens*, some fauored the king, others supported the Romans, *Tertia pars* (said *Titus Linius*) *optima eadem & prudentissima, si utique optio domini potioris daretur, sub Romanis quàm sub Rege esse mallebat: si liberum inde arbitrium neutram partem volebat altera oppressa fieri potentior: ita inter utrosque conditionem ciuitatum optimam fore, protegente semper altero inopem ab alterius iniuria, & illibatis utriusque partis viribus parem esse*: A third part, saith *Titus Linius* being the best and the wisest, if they were to make choise of their lord, had rather subiect themselves vnto the Romans than vnder the king, but if they might haue their free will, they would haue neither of them superior, with the ruine of the other, so as betwixt both the cities should be secure, the one alwayes protecting the weake from the iniuries of the other, and they both should remaine equall, their forces being not impaired: So as the wisest haue held opinion, that there was nothing better for the suretie of estates, then to haue the power of great Princes as equall as might be; yet those which were of this opinion, when as the Romans and Macedonians were in warre, remained neuters, although they were tyed to the power of the Romans, and to the king of Macedon, and it succeeded well for them: for there is a difference in wishing the parties to be equall, and in making himsele a partisan. It is therefore commendable for the greatest and mightiest Princes to remaine neuters, although it be not so concluded betwixt other Princes, as I haue said before. And this is necessarie for the common good of all Princes and States, which cannot be reconciled but by their common allies, or by them that are neuters. But those that be neuters do many times kindle the fier in stead of quenching it; the which may be excusable, if the preservation of their estate depends vpon the warre which they entertaine betwixt others; but it can hardly be concealed, and the matter once discouered, the parties most commonly agree to fall vpon their common enemy, as it happened to the Venetians, who were alwayes wont to sow diuision among their neighbours, and to fish in a troubled water. *Lewis* the twelfth discouering it, he allied himsele with all the other Princes, and then they all ioinly made a league against the Venetians, who were reduced to that extremitie, as they yelded *Crema*, *Bresse*, *Bergame*, *Cremona*, and *Guiradade*, being members of the Duchie of Milan, vnto the french king, and to the Pope *Fauence*, *Rimini*, *Rauenne*, and *Ceruie*, being of the patrimonie of *S. Peter*: to the Empire *Padoua*, *Vincenia*, and *Verona*: to the Emperour the places of *Friuli* and *Treuise*, being the inheritance of the house of *Austria*: to *Ferdinand* the ports and places ingaged by the kings of Naples to the seigneurie of Venice, and to call home their magistrates from the imperiall townes, and out of all the countrie which they held vpon the firme land. Whereas before the warre the Pope would haue been contented with some one place, but this rooke not effect, for *Dominike Treuiran* Procurator of *S. Marke* stayed the Senat, saying, That the Venetians were alwayes accustomed to take townes and castels, but hauing once taken them, it were absurd to restore them. It is therefore more safe for him that remaines a neuter to meditate a peace, than to nourish warre, and in so doing to purchase honor and the loue of others with the assurance of his owne estate, as the Athenians procured a peace betwixt the Rhodians and *Demetrius* the besieger, to the great content

It is honourable
for great princes
to be neuters.

A generall league
against the Venetians.

It is most safe for
a neuter to mediate
peace.

A tent of both parties, who were tyred with warre, and yet were loth to demaund a peace one of another: by which meanes the Athenians did reape great honor and profit to their estate. The which is so much the more necessarie, if he which is a neuter be allied to them that are in warre, and hath occasion to draw succors from his allies: as our kings haue alwayes done betwixt the Catholike and Protestant Swissers, and betwixt the Grisons and the Swissers, as well for the lawes of friendship, as fearing that in the meane time he should want the ayd of his confederats: And sometimes those which are wearied with the warre, stirre vp a third partie being a neuter, for the desire they haue of peace, and the shame they haue to seeke it: as the Florentines not able to subdue the Pisans, by reason of the Venerian succors, who desired nothing more than to retire themselves, they did procure the duke of Ferrare vnderhand to mediate an agreement. It is the greatest point of honor that a Prince can attaine vnto, to be chosen iudge and vmpier of other princes quarrels, as in old time the Romans were, for the great opinion which was held of their vertue & integritie: & since, this prerogative hath been giuen vnto the Popes among other Christian Princes, who oftentimes haue been chosen iudges and arbitrators of all their controuersies: as in the treaties betwixt king *Charles* the 5, and *Charles* king of Nauarre, made in the yeare 1365; and betwixt *Philip Augustus* and *Richard* king of England: If the Pope were not a partie, as *Innocent* the 4 was against the Emperour *Frederick* the 2, then the Emperour made choise of the Parliament of Paris for arbitrator, which was the Senat of Peeres and Princes, and the Councell of France. And Pope *Clement* the 7 making a league with the kings of France and England against the Emperour in the yeare 1528, he caused it to be inserted in the treatie, That if it were needfull to conclude a peace with the Emperour, he should haue the honor to be arbitrator. *Paule* the 3 did the like betwixt the king of France and the Emperour in the treaties of Marseilles and Soissons. One of the most necessarie things for the assurance of treaties of peace and alliance, is to name some great and mightier Prince to be iudge and vmpier in case of contrauention, that they may haue recourse vnto him to meditate an agreement betwixt them; who being equall, cannot with their honors refuse warre, nor demaund peace. But to the end that other Princes be not driuen to that exigent, it shall be necessarie for them all to ioine together in league, to keepe downe the power of any one that might bring the weaker into subiection: or else if they be in league, to send Ambassadors to meditate a peace before the victorie, as the Athenians, the Rhodians, the king of Egipr, and the seignurie of Chio did, betwixt *Philip* the yong, king of Macedon, and the *Ætoliens*, fearing the greatnes of the king of Macedon, as we reade in *Titus Livius*. And for this cause after the taking of king *Francis* the first before Pavia, the Pope, the Venerians, the Florentines, the Duke of Ferrare, and other Potentates of Italie, made a league with the king of England for the deliuerie of the king of France: not for that the afflicted fortune of the French did moue them vnto pitie (as it is vsuall to kings, to whom the name of maiestie seemes holie) but for feare of the imperiall Eagle, which hauing couered a great part of Europe with her wings, might gripe and teare in sunder those pettie princes with her talents: and yet they themselves had not many yeares before ioyned in league with the Emperour against king *Francis* after the battaile of Marignan, and restored *Francis Sforce* to the Duchie of Milan; hauing found by experience how dangerous the neighbourhood of a mightie Prince was, for if he be iust and vpright, his successor will not resemble him, for which cause *Methridates* king of Pontus seeing the Roman empire to reach vp to heauen, he entred into league with the kings of Parthia, Armenia, and Egipr, and with many cities of Greece against the Romans, who had seized vpon the greatest part of Europe vnder coulor of iustice, causing in one day

It is honorable for a prince to be an vmpier in other princes quarrels.

Why many princes made a league against the emperour after the battaile of Pavia.

It is dangerous to be neighbour to a mightie prince.

fortie five thousand Roman citifens to be flaine throughout all Asia, by a secret con-
 spiracie, but it was then too late to make a league against a power which was inui-
 cible. And therefore at this day if great Princes conclude a peace, all others seeke to be
 comprehended therein, as well to assure their estates, as to hold those great princes in
 an equall counterpeize, least that the one by his greatnes oppresse the rest: as in the
 treatie of peace made at Cambray in the yeare 1559, all estates and Christian Princes
 were comprehended by the king of France, or the Catholike king, or by them both
 together, and any others that the two kings should name within sixe monerhs. But
 they must be named particularly, and not in generall tearmes by the names of allies or
 neuters, for if there be not a speciall expresseion, they may iustly pretend ignorance; for
 that affaires of state are sometimes managed so secretlie and so soderly, as a league is
 made before the enterprife can be discouered, notwithstanding all the diligence of Am-
 bassadors to learne out the conditions of the treatie: as it happened in the treatie of
 Cambray made in October 1508, whereas the Pope, the Emperour, the Empire, the
 king of France, the king of Arragon and Naples, the king of Castill, the Dukes of Lor-
 raine, Ferrate, and Mantoue, entred into league against the seigneurie of Venice, the
 which was concluded before the Venetians had any notice thereof, although they
 had ambassadors in a manner with all these Princes: and without doubt if they had
 had any intelligence thereof, they might easily haue preuented it, seeing that after the
 conclusion thereof, and the warre begun, they found meanes to withdraw the Pope,
 and to make him a mortall enimie to the French, which was the only meanes to pre-
 serue their estate from ineuitable ruine. The like happened vnto the protestant Prin-
 ces, against whome the treatie of Soissons was made in September in the yeare 1544,
 betwixt the king of France and the Emperour, where by the first article it was agreed,
 that the two princes should ioine their forces together to make warre against them,
 the which they could neuer beleue, vntill they had seene the preparations made
 against them. They might easily haue preuented the storme which fell vpon them:
 for that the Emperour had no great desier to make warre against them, and the king
 lesse, who did secretly fauour them; so as in giuing the Emperour some succors, or sen-
 ding an ambassador vnto him, they had been comprehended in the treatie, for they had
 no enimie but the Pope, who was then a neuter betwixt the Emperour and the King.
 Sometimes the league is so strong, and the hatred so great, as it is a hard matter to hin-
 der it, and much more to breake it, being concluded. King *Francis* the first was well
 aduertised of the league made betwixt the Pope, the Emperour, the king of England,
 the Venetians, the Dukes of Milan and Mantoue, the Commonweales of Genes, Flo-
 rence, Luques, and Sienna, all confederates against his estate; yet could he not preuent
 it, but in quitting the duchie of Milan. Those which had concluded a peace and perpe-
 tuall amitie with him, and those which were tied vnto him by a defensue league,
 brake their faith, and made open warre against him: the which was not held strange,
 for many make no esteeme of the breach of faith in matter of treaties betwixt princes,
 especiallie if they may reape any profit thereby: yea some are so treacherous, as they
 sweare most when as they intend most fraud, as *Lisander* was wont to say, That men
 must be circumuented and deceiued with oathes, and children with toyes; but he felt
 the grieuous punishment of his disloyaltie. Doubtlesse, periurie is more detestable
 than atheisme, for that the atheist who beleeueth there is no God, is not so wicked and
 impious, as he that knowes there is a God which hath a care of humane things, yet
 vnder coulor of a false and counterfeit oath, is not ashamed to skorne and abuse his
 deitie: so as we may rightly say, That treacherie is alwayes ioined with impietie and
 basenesse of mind; for hee that willinglie forswears himselfe to deceiue another,
 shewes

In treaties the
 parties compre-
 hended must be
 expressly named.

A league against
 Fraunce.

Plut. in *Lisander*.

A shewes plainly that he skornes God, and feares his enimie. It were better neuer to call the immortall God, or him they hold to be a God, to be a witnes of their fraud, but only themselves; as *Richard Earle of Poitiers* sonne to the king of England did, who giuing a confirmation of the priuiledges of *Rochell*, vsed these words, *Teste meipso*, My selfe being witnes. Seeing then that faith is the only foundation and support of iustice whereon not only Commonweales, but all humaine societie is grounded, it must remaine sacred and inuiolable in those things which are not vniust, especially betwixt princes: for seeing they are the warrants of faith and oathes, what remedie shall the subiects haue against their power for the oathes which they take among themselves, if they be the first which breake and violate their faith. I speake of iust things, for it is a double impietie to sweare to do a wicked act, and in this case he that breakes his oath is no traitor, but deserues reward. And in like case, if the Prince hath promised not to do a thing which is allowable by the law of nature and iust, he is not periured although he make breach thereof; neither are priuate men tyed by their oath, if they haue promised to do more than is allowable by the Ciuill law. Those things which are by nature vniust and vnlawfull no man may promise, neither may any man vrge them if they be promised. But wise Princes ought not to sweare any thing vnto other Princes that is not allowable by the law of nature and nations, nor force any Prince that is weaker then themselves to sweare to vnreasonable conditions.

Faith betwixt allies must be kept.

It is no disloyaltie to breake an vnlawfull oath.

C And to take away all ambiguitie of words, it shall be needfull to shew what is vniust, else he that is bound will take the word iust in generall to make vse of it in some speciall case, as in the treatie made in the moneth of May, in the yeare 1412, betwixt *Henry* king of England and his children on the one part, and the Dukes of Berry, Orleans, and Bourbon, the Earles of Alancon and Armaignac, and the lord of Albret on the other part, who sware to serue the king of England with their bodies and goods in all his iust quarrels when they should be required. There was no expresse reseruatiō of their soueraigne, against whom the king of England meant to imploy them by vertue of this contract, the which he could not do. There is neuer any iust cause to take armes against ones prince or countrie, as an auncient orator said, yet are not those princes free from the note of treacherie, which infinge their faith in matters which they haue sworne to their preiudice, being forced thereunto by the victor as some Doctors haue maintained, being as ill informed of the estate of Commonweales, as of auncient histories, and of the ground of true iustice, discoursing of treaties made betwixt princes, as of contracts and conuentions among priuat men, the which is an opinion of most dangerous consequence, which error hath taken such roote within these two or three hundred yeares, as there is no league (how firme soeuer) made betwixt princes, but it is broken, so as this opinion goes now for a grounded maxime, that the prince which is forced to make a league or peace to his hurt and preiudice, may go from it when occasion is offered. But it is strange that neither the first lawgiuers and lawyers, nor the

A dangerous opinion in treaties.

E Romans who were the patrons of iustice, did neuer thinke of this shift and euasiō. For it is manifest, that most treaties of peace are made by force, either for feare of the victor, or of him that is the stronger; and what feare is more iust then of the losse of life? yet neuer any prince or lawgiuer did refuse to performe that which he had promised vnto the victor, as if it had been forced. *Que enim viro forti, inquit Tullius, vis potest adhiberi?* What force can be vsed, sayth *Tully*, to a valiant and resolute man? It appeared in the Consul *Marcus Attilius Regulus*, who being taken prisoner by the Carthaginians and sent to Rome vpon his word, sweating that he would returne vlesse he could procure some noblemen that were captaines to be set at libertie, from the which he dissuaded the Senat, yet did he not refuse to returne, although it were to an assured

A resolute man cannot be forced

death, nor yet the Consull *Mancinus* to the Spanyards, when as he could not persuade the Senat to the conditions of peace. What grauer schoolemasters of the lawes of armes, what better interpreters of the Roman lawes can we desire, than the Roman Consuls? they went willingly vnto torments rather than they would treacherously breake their faith. The Consull *Posthumius* and his companion with sixe hundred Captaines, Lieutenants and Gentlemen of the Roman armie, being surprized by the enemy in the straights of the Appenine hills, whereas they could neither aduance, retire, nor yet fight; being set at libertie vpon their words, and hauing disputed of the law of nations in open Senat, and before all the people, touching accords and treaties made in warre; they did neuer pretend force nor feare, but it was only said, that they could not treat of any conditions of peace with the enemy, without an especiall charge and commission from the people of Rome: whereupon the Consuls which had sworne the peace, and those which had giuen themselves as hostages for the whole armie, yellded themselves willinglie to the enemy, to dispose of their liues at their pleasure, and so they were deliuered vnto them by the Heralds.

The treatie of
Madril.

In the treatie of Madrill, made the 14 of February 1526, it was said, That king *Francis* the first being come vnto the first towne of his realme, he should ratifie the articles which he had sworne in prison, and cause them to be ratified by the Dauphin of France when as he came to age: and by the last article it was agreed, That if the king would not obserue the peace which he had sworne, he should returne prisoner into Spaine, giuing his two sonnes *Francis* and *Henry* for hostages. Being at libertie, all Princes offered themselves, and ioyned with him in league against the Emperour *Charles* the fift, to pull downe his power whom they had raised vp to heauen. The king hauing assembled all his princes and noblemen in his court of Parliament to resolve what was to be done touching the treatie of Madrill: *Selua* the first president, seeking to prooue that the king was not tyed vnto the treatie, he grounded himselfe vpon the authoritie of Cardinall *Zabarella*, who held, That whatsoeuer was done by force or feare, was not to be ratified; confirming it by the example of *Ihon* king of Cipres, who being taken prisoner by the Geneuois, gaue his sonne for hostage, and yet kept not his promise. I wonder the President of so great a Senat did not blush not only to commend a man that was ignorant of the lawes of armes, but also to arme himselfe with such foolish arguments, yet this was the chiefest ground of the breach of the treatie of Madrill, adding thereunto, that the king could not giue away or renounce the soueraigntie of the Lowcountries, nor the duchie of Burgongne, without the expresse consent of the estates. This indeed was sufficient to breake the treatie, the rest were impertinent. But all these obiections were neuer brought in question by the antients, they neuer required, That a prince being set at libertie out of his enemies power, should ratifie that which he had sworne being a prisoner: a ridiculous thing, that were to call the treatie in question, and leaue it to the discretion of him that was a prisoner, whether he shall obserue that which he hath sworne or not. Moreouer the antients neuer regarded the breach of treaties, when as they tooke hostages: for that he is not tied to any lawes of the treatie, nor to any other, neither is he forced to sweare; for hostages are giuen to be pledge for him that is captiue, and to suffer, if he shall make a breach of the conditions agreed vpon. And were not he simple, that hauing a good pledge, should complaine of his debtor, that he hath broke promise with him: therefore the Consull *Posthumius* maintained before the people, That there was no contrauention in the treatie made betwixt him and the Samnites, seeing it was no treatie of peace, or league, but a simple promise, the which did bind them onely which had consented thereunto, *Quid enim (inquit ille) obsidebus aut sponsoribus in fœdere opus esset, si præcatione res transigi-*

Treaties made
by a prisoner
may not be
broken.

An oath is need-
lesse where ho-
stages are taken.

A *tur? Nomina Consulium Legatorum, Tribunorum militum extant: si ex fœdere res acta esset, præterquam duorum fœcialium non extarent,* What need (saith he) should there bee of hostages and sureties in a league or peace, if it be concluded by intreatie? the names of the Consuls, Lieutenants, and Tribunes, which vnderooke it, are extant: if it be ended by a league, there should be no names ioyned vnto it, but of the two heraulds. Whereby it appeares, that king *Francis* the first, and the king of Cipres, who left their children for hostages, were absolued of their promises by their enemies themselves, for that they had pledges, and did not trust in their prisoners oath. And by the law of arms a prisoner which hath his libertie given him vpon his word, is bound to returne to prison againe. And by a proclamation made by the Senat of Rome, all prisoners were enioyned vpon paine of death (the which were verie many, being let goe vpon their words by king *Pyrrhus*, to goe visit their friends) should returne at a certaine day, but no man gaue any hostage. And if the prisoner be held in bonds, he may escape, neither is he bound to him that tooke him: as king *Francis* the first said vnto *Granuelia* the emperours ambassadour. For as a Roman Consull was wont to say, *Vult quisque sibi credi, & habita fides ipsam obligat fidem*, Every man desires to be beleecued, & a trust reposed, binds the faith it selfe.

A prisoner taken in the war, being kept, may escape without blame.

If any one say vnto me, That the king had sworne to returne, if the treatie tooke not effect: and that king *Iohn* returned prisoner into England, for that he could not accomplish the conditions of the treatie, by which he had given a great part of the realme to the English, and promised three millions of crownes: I answer, that there was no fault in the king, for the estates opposed against the alienation of the reuenues of the crowne: and as for his returne, neither he nor king *Iohn* were tied vnto it, seeing they had taken their children for hostages. And therefore king *Francis* seeing that the emperor would not remit the vniust conditions of the treatie, with the councell and consent of his princes and subiects hee proclaimed a new warre against him: wherewith the emperor being moued, said, That the king had carried himselfe basely, and that he had broken his oath, and that hee would willingly hazard his life with him in single combat, to make an end of so great a warre. The king being aduertised by his ambassadour, That the emperor had touched his honour and reputation; hee caused all the princes to assemble in his court of parliament; and after that hee had called *Perrenot Granuelle* ambassadour for Spaine, he said vnto him, That *Charles* of Austria (having said vnto the herauld of Fraunce, That the king had broken his faith) had spoken falsly, and that as often as he should say so, he did lie: and that hee should appoint a time and place for the combat, where he would meet him. The king of England finding in like sort that he was touched, vsed the like challenge, and with the like solemnities. It was done like generous princes, to let all the world vnderstand, that there is nothing more foule and impious than the breach of faith, especially in princes. Neither was there euer prince so disloyall, that would maintaine it to be lawfull to breake their faith. But some haue pretended that they haue bene circumvented in their treaties, by the fraud of their enemies: others, that they haue erred in fact, or haue bene seduced by euill counsell: or that things were so chaunged, as the wisest could not haue foreseene them: or that it should be impossible to obserue the treaties without the inenitable losse, or apparent daunger of the whole state. In which cases they would pretend, That an oath doth not bind, the condition or the cause of the oath being impossible or vniust. Some there be which maintaine, That the pope may dispence not onely with the oath of other princes, but also of himselfe: but they haue bene contured by other Canonists. So pope *Iulio* the second finding no meanes to breake his faith with king *Lewis* the twelfth, that he might fly from the treatie of Cambray, he did not say, that hee was not tied to

The French king defies the emperor.

The king of England defies him.

his oath, but he tooke occasion to aduance a factor in Rome to the bishoprike of Arles in Prouence, without the priuie of the king or his ambassadour, which did reside at Rome: wherewith the king being incensed (as the case deserued) he caused all the fruits which the beneficers of Rome had in Fraunce, to be seized on: then the pope hauing found what he sought for, declared himselfe an open enemy vnto the king. So *Guichardin* writes, That pope *Iulio* was wont to bragge, That all the treaties which hee made with the French, Spaniards, and Germans (all which he called barbarous) was but to abuse them, and to ruine one by another, that he might expell them all out of Italy. There are others which curse and condemne traytors, yet they loue the treason, and hold the fruits thereof sweet: as it is written of *Philip* king of Macedon: and the Lacedemonians condemned *Phebidas* their captaine, for that contrarie to the tenor of the treatie made with the Thebans, hee had seized vpon their castle called Cadmee, & yet they kept the place still, as *Plutarch* writes. Some which can find no iust cause nor colourable to falsifie their faith, and haue any respect to their honour, they aske aduise and counsell of lawyers: as the marquesse of Pesquiere, who aspiring to make himselfe king of Naples, caused mahy consultations to bee made vnder hand, to know if hee which were vassall to the king of Naples, might (with his faith and honour saued) obey the pope, who was soueraigne lord of the realme of Naples, rather than the king, who was but a feudatarie: hauing two strings to his bow, for he made his account, that if the warre were attempted by the duke of Milan with the popes consent, against *Charles* the sixt, should succeed well, he should then be king of Naples: but if hee should faile, then would he begge the dutchie of Milan, as a reward for his seruice, the duke beeing conuicted of rebellion. But this conspiracie being discouered, hee caused *Maron* the dukes chauncellour to be apprehended and put into the castle, and making of his proccesse, he suffred him to escape, fearing he should speake too plainly, if he were ill intreated: and soone after he died of thought, knowing well that his treacherie and disloyaltie was discouered, and inexcusable, seeing that he betrayed both the emperor and the duke, and all those of the league by the same meanes: the which is the most detestable treacherie of all others. Yet do I not blame him, that to assure himselfe hath two strings to his bow, so as it be done with a respect to his faith and honour: as it is reported of *Themistocles*, who secretly aduertised the king of Persia, That vnlesse he departed suddenly out of Europe, the Greekes had resolved to breake the bridge which hee had made vpon the sea Hellespont, to passe his armie out of Asia into Europe: desiring him to keepe it secret. This he did to assure himselfe of the fauour of the king of Persia, if he did vanquish; or to haue the honour to haue expelled him out of Greece, if hee marched away, as he did. But these subtrill deuises beeing discouered by princes that are in league, do oftentimes cause good friends to become sworne enemies: as the Epirots, who agreed with the Achæans their confederats, to make warre against the Ætolians, and yet they did signifie by their ambassadour, That they would not take armes against them. Another time they plaid the like part with *Antiochus*, promising him al friendship, so as they might not be in disgrace with the Romans, *Id agebatur (inquit Titus Linius) ut si rex abstinisset Epiro, integra sibi essent omnia apud Romanos, & conciliata apud regem gratia, quod accepturi fuissent venientem*, That was done (saith *Titus Linius*) that if the king did forbear to enter into Epirus, they should continue in fauour with the Romans, and they should purchase grace with the king, that they would haue receiued him if he had come. But their counsels being discouered, they procured to themselves a miserable slauerie with the flight of *Perses*. The lawyers hold it for a maxime, That faith is not to be kept with them that haue broken their faith. But they passe on further and say, That by a decree made at the counsell of Constans, it was ordained, That no

A faith should be kept with the enemies of the faith : for that the emperor *Sigismund* hauing giuen his faith to *Lancelot* king of Bohemia, and a safe conduct to *Iohn Hus*, and *Ierosme* of Prague, would not suffer any to proceed against them : but to free him of that doubt, there were many Lawyers, Canonists, and Diuines, especially *Nicholas* abbat of Palerme, and *Lewis du Pont* surnamed Romain, which concluded in this opinion, the which passed for a decree, and was confirmed by the councell . So as *Iohn Hus* and his companion were executed, although that neither the councell nor the emperor had any iurisdiction ouer them : neither was the king of Bohemia (their naturall lord) of their opinion, to whom notwithstanding the emperor had giuen his faith, but they regarded it not . Whereat we must not maruell, seeing that *Bartol* (the first lawyer of his age) maintaines, That faith is not to be kept with priuat enemies, but with capitains in chiefe . According to which decree the cardinall Saint *Iulian* was sent Legat into Hongarie, to breake the treaties of peace concluded with the Turke : against the which *Humiades* father to *Mathew Corwin* king of Hongarie opposed himselfe vehemently , shewing that the peace was concluded with very reasonable and profitable conditions for the Christians , notwithstanding the Legat shewed him this decree made by the Councell , by the which they might not hold no faith with the enemies of the faith. The Hongarians building thereon , brake the peace. But the Emperour of the Turks hauing notice of this decree, and of the breach of the peace, leauied a mightie armie , and hath neuer ceased since, both he and his successors, to increase in power, and to build that great Empire vpon the ruine of Christendome ; for euen the Emperour *Sigismund* himselfe was chased away with all the armie of Christians, and the Ambassador which had carried this decree, was in his returne slaine by certaine thecues that were Christians, whereby it appeared that God was displeased with that decree, for if it be lawfull to breake ones faith with infidels, then is it not lawfull to giue it ; but contrariwise if it bee lawfull to capitulate with infidels, it is also necessarie to keepe promise with them. The Emperour *Charles* the fift made a league of friendship by his Ambassadour *Robert Inglish* with the king of Persia, who was pursued by the Sangiac of Soria euen vnto the frontiers of Persia, and yet he had no other reproch to make against king *Francis* the first but that he had made a league with the Turke . It is well knowne that the kings of Poland, the Venetians, Geneuois, and Rhagusians haue the like with them. And the same Emperour *Charles* the fift gaue his faith vnto *Martin Luther* (whom the Pope had cursed as an enemy to the Church) to come to imperiall diet at Wormes, in the yeare 1519, whereas *Echius* seeing that hee would not abiure his opinion, alleaged the decree of Constance, according to the tenor whereof hee vrged them to proceed against him, without any respect to the faith which the Emperour had giuen . But there was not any prince which did not abhorre this request of *Echius*, and detested his decree . And therefore the emperor to maintaine the publike faith , sent *Martin Luther* backe safe to his owne home, with certaine troupes of horse . I know not how it came in the fathers minds at the councell of Constans, to take all faith from heretikes, when as the pope himselfe at his first installing, doth take an oath of the Iewes, suffering them to enioy their religion with all libertie . Yea and many times the princes of Germanie and Italie do admit Iewes to be witnesses in their suits, the forme of the Iewes oath is set downe in the decrees of the Imperiall chamber, *Lib. 1.* the 86 chapter, where it is said, That they should sweare to keep their faith with the Christians as loyally as their predecessors did with the Gifans that were Idolaters. So *Iosua* commaunders ouer the Israelites, hauing bene circumvented by the Gabionites beeing Pagans and Infidels, in a treatie which he had made with them, to saue them, and foure

It faith be to be kept with enemies of the faith

L. conuentionum
F. de Pælis.

Faith must be kept with Pagans and Idolaters.

townes which they had : and hauing afterwards discouered their fraud, beeing persua- F
 ded by the Captaines of the Israelites to breake the peace, he would not do it, saying,
 That they had giuen their faith, to the end saith the text, that the furie of God whom
 they had called to witnesse should not fall vpon them. As for that which we said, That
 no faith is to be kept with them that haue broken their faith: it is but agreeable with the
 law of nature, and all histories are full of them. And in our time *Smán Bascba* hauing
 capitulated with them of Tripoli in Barbarie, and sworne by his maisters head to suf-
 fer the knights of Rhodes to depart with their baggage after, that the towne was yeel-
 ded, notwithstanding his oath, he made all the inhabitants slaues, except two hundred
 which he set at libertie at the request of *Aramont* the french Ambassador : and being
 challenged of his oath, he answered, That no faith was to be kept with them, for that G
 they had sworne at Rhodes neuer to carrie armes against the Turks, reproching them
 that they were worse than dogs, which had nether God, faith, nor law, the which might
 haue been refelled by them of Tripoli, but that might ouercame right, for that they
 were not tyed to the oath taken by the knights of Rhodes ; nor, if the Tripolitans had
 formerly sworne, could he now take reuenge thereof by this new accord. For former
 periurie and treacherie may not be repeated nor reuenged when as they haue once
 concluded a peace and agreement together, else there should neuer be any assurance of
 peace, nor end of treacherie. But if one Prince hath broken his promise and deceined
 an other, he hath no cause to complaine if he be required with the like : as the Romans
 hauing vanquished the Epirots (who had broken their faith with them, and put garri- H
 sons into their townes during the warres of Macedonie) presently after the taking of
Perseus, they made it to be giuen out that they would also set the Epirots at libertie,
 and withdraw their garrisons, inioyning ten men of the chiefe of euery citie to bring all
 the gold and siluer, and then sodenly they gaue a watchword to the garrisons to sack
 and spoile the cities, the which was done, and in this sort they spoyled 70 cities. In the
 punishment of this treacherie, the Romans behaued themselves more cruelly than was
 needfull, for that the reuenge should not extend but to them that had committed the
 periurie; and this dissembling was against the antient honor of the Romans. But if per-
 iurie were couered by a new treatie, it were not lawfull to reuenge it: yet there are some
 so base and treacherous as when they sweare, they haue no thought but for to sweare I
 and breake their faith, as *Charles* Duke of Bourgongne gaue a safegard to the Earle of
S. Paul Constable of France to sell him dishonorable to *Lewis* the 11 king of France.
 But *Antony Spinola* Gouvernor of the Isle of Corsica for the Geneuois, committed a
 fouler act, adding crueltie to his periurie; for hauing called all the Princes of the island
 together vnder colour of counsell, and inuiting them to a banquet, he commanded
 them to be slaine, the historie is fresh. And the banished men of Cynethe a citie of
 Greece, being called home, and receiued by a new treatie made with them which had
 expelled them, they swate to forget all iniuries past, and to lue together in peace and
 amitie: but in swearing (saith *Polybius*) they studied of nothing els, but how to betray
 the citie, as they did, to be reuenged of the iniurie (which they had couered by a new ac- K
 cord) expelling all their enemies. But God to reuenge their disloyaltie, suffered the Ar-
 cadians, to whome they had betrayed the citie, to kill all those which had put it into
 their hands. Oftentimes princes and seigneuties forsake their leagues for feare, who
 commonly doe follow the victors partie: as after the battaile of *Pauiá*, all that were in
 league with the king of Fraunce in Italie, forsooke him: and after the battaile of *Can-*
nes, almost all the Romans asociats in Italie left them: and euen the Rhodians after
 the taking of the king *Perseus* (with whome they were in league) they made a procla-
 mation, That no man vpon paine of death, should say or doe any thing in fauour of
 him.

Faith is not to
 be kept with
 them that haue
 broken their
 faith.

Periurie couered
 by a new treatie,
 may not be re-
 peated.

Fraud circum-
 uented by fraud.

Feare is often-
 times the cause
 of a breach.

A Feare may well excuse base minded men from giuing aid, but not from petiurie: but what colour or excuse can he haue, that comes to capitulat with an intent to deceiue and circumuent? It is inexcusable to men, and detestable before God. And yet the emperour *Maximilian* the first was wont to say, That he made no treaties with the French, but to abuse king *Lewes* the twelfth, and to bee reuenged of seuenteenie iniuries which he had receiued from the French, although he could not specifie one: for euery man knowes, that for these two hundred yeres, Europe neuer had prince more religious than *Charles* the eight, nor more vpright and iust than *Lewis* the twelfth, who raigned in the time of *Maximilian*. Yea the last, who alone among all others, was called Father of the people, did shew how loyall he was both in deed and word, hauing treated a peace with *Ferdinand* king of Arragon, from whome hee had receiued many wrongs and losses, yet when as *Ferdinand* was come vnto the port of Sauonne, the king of Fraunce entred into his gallee, accompanied onely with two or three noble men, *Ferdinand* being amazed at his great assurance and bountie, went out of his gally, and lodged in the castle of Sauonne. It was in the power of the king of Fraunce to retaine him (as *Charles* of Bourgongne did in the like case to *Lewes* the eleuenth at Peronne) but hee was so free from any so vild adisposition, as he omitted no pompe nor magnificence to giue him all the content that might bee. The confidence of both kings is disallowed by treacherous men, who shew plainly how perfidiously they would haue dealt: but to all good men it must needs seeme commendable, which detest that in others, which they themselues hold dishonest. But if princes being in warre, haue made a truce, and concluded a parle, they must come vnarmed, least the one (being secretly armed) should by fraud murder his enemy, as *Iphicrates* the Athenian did *Iason* the tyrant: or as *Mithridates*, who slue the prince of Armenia his sisters sonne. Or if the one comes weakely accompanied and with small force, then must he take hostages from the other, or some places of strength, before he approach, as it is commonly vsed. So did king *Perseus*, who being come with a great traine vnto the frontiers of his realme, and would haue passed the riuer which diuided the two kingdomes, *Q. Martius Philippus* the Roman ambassadour required hostages, if hee meant to passe with aboute three in his companie: *Perseus* gaue the chiefe of his friends, but *Martius* gaue not any, for that he had but three men with him. If there be question to giue hostages for the deliuerie of some great prince that is a prisoner, it must be done with equall forces on either side: and in deliuering the hostages, to receiue the captiue at the same instant; as they did when as king *Francis* the first came out of Spain from prison: else it were to be feared, that a disloyall prince would hold both prisoners and hostages: as *Triphon* the gouernour of Soria did, hauing taken *Jonathan* by treacherie, he promised to set him at libertie for threescore thousand crownes, and his two sonnes hostage: hauing deliuered him the ransome and hostages, hee kept the money and slue the hostages with the prisoner: commaunding his pupill the king of Soria to be cruelly murdered. We must by all meanes shun these pestilent kind of men, and not contract any league or friendship with them, vnlesse it be forced. Yea if they had contracted mariage, yet there is no assurance, if the prince be treacherous and disloyall: as *Alphonsus* king of Naples was, who slue *Cont Iames* the duke of Millans ambassadour. Such a one they write was *Caracalla* emperour of Rome (who neuer shewed a good countenance, but to such as he meant to murder) hauing made a peace with the Parthians, he demaunded the kings daughter, the which was graunted him: so as hee went into Persia wel accompanied to marie her, being all armed vnder their garments, who vpon a signe giuen, when as they thought of nothing but of good cheere, he caused all the noble men that were at the marriage to be slaine, and so fled away: being not

Feare cannot excuse petiurie.

What is to be obserued betwixt princes going to parle.

In what sort hostages are to be giuen for a prince that is prisoner.

ashamed

ashamed to boast, That it was lawfull to vse his enemies in that sort. This murther was not so cruell, as the excuse was detestable and odious: but God did not let his disloyaltie to be long vnpunished, suffering one of his houshold seruants to murther him as he was at the stoole, and to enioy the empire for his reward. They say, that *Cesar Borgias* sonne to pope *Alexander* the sixt, was like vnto this monster, whome *Machiauel* doth produce for the paragon of princes: he had learned of his father to poyson such as he inuited to a banquet: it cannot be said, Which did exceed other in treachery: *Alexander* the father neuer did that which he said, and *Cesar* his sonne neuer spake that which he did: and both of them did religiously hold, That faith was to be giuen to all men, but to be kept with no man. *Cesar* gaue his faith, and sware great oathes for the assurance of the peace which he had made with the princes that were in league against him: and hauing drawne them together vpon his faith, hee murthered them cruelly whereat his father laughing, said, That he had shewed them a Spanishe trick. But it was an extreame folly for the princes to put their liues into the hands of the most disloyall and perfidious man liuing, and knowne for such a one: and euen at such a time as he was but subiect to the pope, and had no power to giue his faith to them he put to death: so as the pope might haue excused them as his subiects and vassals, without any note of treacherie. But the pope was poisoned with the same poison which hee had prepared for his friends and companions: and his sonne escaping the force of the poyson, was ouerreacht with the same fraud that he had circumuented his enemies. For when as *Consulius* Viceroy of Naples had giuen him his faith (not being so skilfull in the law of armes and herauldry, as he was to commaund in warre) *Borgias* came to Naples, which when as king *Ferdinand* vnderstood, he commanded him to keepe *Borgias* prisoner: the Viceroy shewes his charge, and *Borgias* did vrge him with his oath and faith: but the Viceroy could not giue his faith without the kings expresse commission, much lesse release a subiect that is captiue, when as the king forbids it. Neither should *Borgias* haue entred rashly into his enemies countrey. We read that *Albret* earle of Franconie committed the like errour to the duke of Valentino: for beeing besieged by the emperour *Lewis* of Bauiere, *Othon* the Archbishop of Ments perswaded him to come vnto the emperour vpon his faith, swearing, That if hee were not reconciled to the emperour, he should returne safe with him vnto his castle. This good bishop being gone forth, made shew as if he had forgotten something in the castle, and returned backe with the earle. After that he had deliuered the earle into the emperours hands, being vrged of his promise, he said, That he was returned: like vnto the souldiour in *Polybius*, who notwithstanding his shift, was sent backe by the Senat of Rome, with his hands, and feet bound to the enemy. But although the Archduke could not giue his faith vnto a rebell, without warrant from the emperour, yet for that hee had fraudulently drawne a man into danger, who was ignorant of the laws of armes (otherwise than *Consulius* had done) he was not free from the foule crime of treacherie: like vnto *Paches*, who perswaded *Hippias*, that he should come forth of his castle to a parlie, swearing, That he should returne safe: the captaine being come forth, the castle was easily taken: then did he bring *Hippias* backe safe into the castle according to his promise, and there slue him. In like sort *Saturnius* the Tribune with his complices, hauing seized vpon the capitoll by conspiracie and rebellion, comming forth vpon the Consuls faith and safegard, they were slaine, and their memorie condemned. The like chance happened in Luques in the yeare 1522, when as *Vincent Poge* and his companions had slaine the Gonsalonier in the palace, the magistrats gaue them their faith and assurance, that they should not be called in question for the fact, so as they would depart the citie: for that they were then in armes, and the stronger: yet soone after they were pursued and

The treacherous disposition of pope Alexander the sixt, and Cesar Borgias his sonne.

Treacherie paid with treachery.

- A** and punished as they deserued. And to the end that by the promise of magistrats, the publike faith and assurance should not be broken, the Seigneurie of Venice made a decree in the councell of ten, published in the yere 1506, That no gouernor nor magistrat should giue any safeconduct to a banished man: the which was referued for the Seigneurie onely; who by another decree made in the yere 1512, did forbid to take any one prisoner, to whome the Seigneurie had giuen a safeconduct: not that princes and soueraigne states are bound to giue their faith vnto subiects, and much lesse vnto banished men; but hauing once giuen it they must keepe it inuiolable. We haue no better schoolemasters of the lawes of armes, and of the publike faith, than the auntient Romans, and yet we read that *Pompey* the Great did capitulat with pirats, giuing them a sute retreat in some townes & prouinces, to liue there vnder the obedience of the Romans: for he was aduertised, that the pirats had nine hundred sayle of ships, and aboute fise hundred townes vpon the sea coast, commaunding the whole sea, so as the gouernours could not passe to their prouinces, nor marchants traffique: and that so great a power could not be defeated, without exposing the estate of the people of Rome to apparent daunger; the maiestie whereof stood and was absolute by meanes of this treaty: and if he had not kept the faith which he had giuen them, or if the Senat had not ratified the treatie, he had polluted the honour of the Romans, and blemished the fame of so worthy an exploit. Not that I would haue states to enter into any league, or haue any comarce with pirats and theeues, (for that they ought not to bee partakers of the law of nations, as I haue said before.) And although that *Tacferin* chiefe of an armie of theeues in Affrike, sent ambassadours to Rome, to the end they should appoint lands & places for him and his to inhabit, else he would proclaime perpetuall warre against the Romans; yet the emperour *Tiberius* taking this for an indignitie, would not so much as heare his ambassadours, saying in open Senat, That the auntient Romans would neuer heate, nor treat in any sort with *Spartacus* the slaue, by his profession a Fencer, and captaine of the theeues, although he had gathered together threescore thousand slaues, and defeated the Romans in three battailes: but after that he had bene vanquished by *Craffus*, all that escaped were hanged. Whereby it appeares, that it is dishonourable for a prince or state, to treat with theeues: but hauing once plighted their faith vnto them, it is against their dignitie to breake it. There is a rare example of the emperour *Augustus*, who made a proclamation, That whosoever could bring vnto him *Croco-tus*, captaine of the theeues in Spaine, should haue 25000 crownes: whereof he being aduertised, he went and presented himselfe to *Augustus*, and demaunded the reward: the which the emperour caused to be giuen vnto him, and withall pardoned him, to giue an example to others, that they must keepe their faith, without any respect to the parties merit.

It is dishonourable for a prince to deale with theeues.

A notable deed of the emperour Augustus.

- E** There is great difference, whether faith be giuen to a theefe, a friend, an enemy, or a subiect: for a subiect which ought to maintaine the honour, estate, and life of his soueraigne prince, if he proue treacherous and disloyall vnto him, and that lice hath giuen him a protectiō, or if he come to capitulat with him, if the prince doth infringe his oath with him, he hath not so great cause to complain as a theefe, if the theefe be not his subiect: as the legion of Bulgarian theeves, which being come into France to dwell there, king *Dagobert* gaue them his faith, finding it daungerous suddenly to breake such a troupe of loofe and desperat men: but soone after vpon a certaine day, a watchword being giuen, they were all slaine. But there is a great difference, whether a soueraigne prince doth capitulat with his friends or his enemies, & that those subiects which haue rebelled against his maiestie, be comprehended in the treatie: Many haue made a question, if the prince breaking his faith with those rebels, and seeking reuenge of them; whe-

whether the enemy be thereby wronged, and if the assurance given, or the truce, be thereby broken? as it oftentimes falls out, the which doth most afflict princes: as *Titus Livius* saith of *Philip* king of Macedon, *Vna res Philippū maxime angebat, quodcum leges a Romanis victo imponerentur sciendi ius in Macedonas, qui in bello ab se defecerant ademptū erat*, One thing tormented *Philip*, that hauing laws prescribed him by the Romans, he might not tyrannize ouer the Macedonians who had fallen from him during the wars. I hold that in this case the treatie is broken, and that the enemy or the prince which hath contracted securitie for an other princes subiects, may take it for an iniurie, & seeke his reuenge, although the subiect were guiltie of treason in the highest degree. As the Barons of Naples, who went to Naples vpon assurance given, and an oath taken by *Ferdinand* king of Naples, vnto the Pope, soueraigne lord of Naples, the king of Spaine, the Venetians, and the Florentines, who were bound, and had all sworne to entertaine the treatie; yet they were imprisoned by *Ferdinand* king of Naples, who put them all to death, although he had receiued them vnder his fathers assurance and his owne. But there is no breach of the treatie if a priuat person seekes reuenge of former wrongs of them that are comprehended in the treatie vnlesse; he hath precisely promised that he shall not suffer any pursuit to be made against them for any thing that had been committed before the treatie; or that assurance was given them in generall termes to returne vnto their houses. For a generall clause in generall termes hath the same force that a speciall clause in a speciall case, which may not be stretcht from the places, times, persons and cases, contained in the articles of the treatie or safeconduit: all which notwithstanding were neglected by pope *Leo* the tenth, who hauing given his faith and a passport vnto *Paul Baillon* (who had expelled his nephew out of Perouze) when he came to Rome he was committed prisoner, and his processe made, not only for his rebellion, but for many other crimes, for the which he was conuicted and executed. The historie reports, that the pope had not only given his faith vnto him, but to all his friends in generall: true it is they were all his vassals. He did the like vnto *Alphonso* Cardinall of Sienne, being accused that he had attempted to poyson the Pope: to draw him into his snares he gaue him his faith, and to the Ambassador of Spaine in the name of the Catholike king; yet he came no sooner to Rome but his processe was made: whereupon the ambassador of Spaine complained greatly, but the Pope (who wanted no lawyers) answered him, That a safegard or protection how ample soeuer, is of no force, if the crime committed be not expressly set downe: so as presently after the Cardinall was strangled in prison. But the Spanish Ambassador could not stipulate a protection for any one without a commission from his maister, as we haue shewed before; the ignorance whereof hath oftentimes been a great plague and ruine to princes. Pope *Clement* the 7 circumvented the Florentines in our age with the like fraude, hauing promised the Spanish Ambassador to maintaine their estate free: but hauing seized of the citie, he made it subiect to *Alexander* his brothers bastard, who put the chiefe men to death, after the proscription of many, saying, That treason was alwayes excepted: the which was a friuolous and idle excuse, seeing that he was neuer lord of Florence. Therefore in all treaties it is most safe to set downe particularly the number and qualitie of the iudges, for the differences that may arise among the associates, so as the number be equall of either side; with authoritie to the arbitrators to chuse an vmpier, if they cannot agree among themselues: as in the league made by the foure first Cantons in the yeare 1481, where it was sayd in the fourth and fift Article, that in all controuerxies they should chuse an equall number to determine of them. And in the alliance betwixt the house of Austria and the twelue Cantons, the Bishops of Bohemia and Constance are named: but in the treatie betwixt the king of France and the

A prince giuing
his faith to his
subiects, must
keepe it.

So the tenth
periuired to be
reuenged.

Ambassadors
cannot promise
nor take assurance from ano-
ther, without an
especiall com-
mission.

Swissers,

A Swissers, in the yeare 1516 in the 17 Article it is said, that in matters of controuersie; euery one should chuse two arbitrators; and if they could not agree, the plaintife should chuse a fift out of the Valesians or from Coire to be vmpier, who might not alter any thing of their opinions, but chuse the one of them. It were more conuenient that the fift had been chosen by the foure which could not agree, for that the Swissers were alwayes demanders, and named whom they pleased, so as the king had alwayes the worser cause.

There is an other point which doth commonly deceiue Princes, which is, to treat with Ambassadors, deputies, or Lieutenants, without an especiall commission; for notwithstanding any promise which he shall make to haue it ratified by his maister, yet is there no assurance, for that the Prince which promiteth stands bound for his part, and the other remaines at libertie to accept or reiect the conditions of the treatie; and hap-
B pelie in the meane time there falls out some accident which breeds an alteration: as it happened betwixt the Samnites and the Nuntiantines, and (without any farther search) to *Lewis* the 12, who treated a peace with the Archduke *Philip* passing through France in the yeare 1503, by vertue of an ample Commission which he had from his father in law, promising moreouer to cause him to ratifie it: but *Ferdinand* attended the issue of the warres of Naples, whereas the French were vanquished in two battailes, and expelled the realme, so as he refused to ratifie what his sonne in law *Philip* had concluded with the king of France, saying, that the Archduke had no especiall commission. At
C the least there must be a time prefixt for the ratifying of the treatie, or a resolute clause for the want thereof: for in matters of State, and of treaties betwixt Princes and Commonwealthes, a silent ratification is not sure. And this was the cause of the breach of the treatie of Bretigny, the which *Charles* the fift then Regent of France had not ratified touching the soueraignie of Guienne. And the same occasion made them of Carthage breake the peace betwixt them and the Romans: for after the first warre, they had made two treaties, in the first all the associates of both nations were comprehended in generall teatmes only; and it was said, that the treatie made with *Lucretius* the Con-
D sull should hold if the people of Rome did like of it, the which they would not ratifie, but sent an expresse commission into Affrike with the articles they would haue concluded, and *Asdruball* Generall of the Carthaginians confirmed them. In this treatie the Saguntines were expressely comprehended, as allied vnto the Romans, but this treatie was not expressely ratified by the Carthaginians; vpon which point the Senat of Carthage stood, maintaining that *Hanniball* might lawfully make warre against the Saguntines: and yet the Carthaginians hating obserued the treatie made by their Generall in all other clauses, they had ratified it in fact, which is more than words. It is therefore the more sure not to conclude any thing without an especiall commission, or expresse ratification, for there neuer wants excuses and deuises to couer their disloyalties, the histories are full of them, as of the Calcedonians against the Bizantines, of *Cleomenis* against the Argiues, and of the Thracians against the Theffalians, who when as they had concluded a truce for certaine dayes, they spoyled their fields by night: and as the Flemings, who fearing to pay two millions of florens into the popes treasure, (as it was concluded by the treatie of peace, if they did rebell against the king of France) they counselled *Edward* the third, king of England, to quallifie himself king of France, and then they would take armes for him, the which was done: Others distinguish vpon the word, as king *Lewis* the 11, who making a shew that he had need of the good counsell and aduice of *Lewis* of Luxembourg Constable of France, he said, That he wanted his head. And the Emperour *Charles* the fift by a subtil alteration of a letter denied that which others thought hee had affirmed, writing touching the deliuerie of
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the princes of Germanie out of prison. But *George Cornarus* found a more subtill interpretation, seeing that he could find no meanes to breake the treatie made with the king of France, said, That the treatie was made with the king for the preservation of his estate, and not to recouer them when they were lost. But when all failes; and that there is no other excuse, he that is the stronger, is in the right; and the weaker hath wrong, as *Atabalippa* king of Peru (being prisoner to *Francis Pizarre*, Captaine of the Spanyards) he promised the value of ten millions and three hundred thousand ducats for his rancome, the which he payed: the Spanyards hauing resolved to put him to death, said, That there was no meanes for his libertie, vnlesse he became a Christian: he to saue his life was baptized, but with much grieve of mind, saying, That the immortall sonne was to be preferred before mortall gods, but terrified with such imminent danger, he imbraced the Christian religion. What shall I say more? The Spanyards hauing a king that was penitent, confessing and obedient to all their lawes, they put him to death, without any regard of faith or oath, like vnto the wicked Millanois, whom it were a sinne to name, who hauing taken his enemy at an aduantage, set a dagger at his throat, threatening to kill him, if he did not aske him pardon for all the injuries he had done him, the which was done: then he threatned him with death if he did not denie God; he abiured God and all his works with horrible execrations, but his aduersarie not satisfied therewith, caused him to repeate those curses often, least they should be counterfer, and then he slue this blasphemier, saying, That he was reuenged both of bodie and soule. Behold the reward which this denier of God receiued, for putting his trust in the promises of a murtherer. In the treatie made betwixt king *Lewis* the 11 and *Charles* Duke of Bourgogne, in the yeare 1475, he made the king to sweare first by the word of a king, then by the faith of his bodie, and by his creator, by the faith and law which he had taken in his baptisme, and vpon the Euangelists and the Canon of the Masse; and in the end vpon the true Crosse. I omit to write what he profited by this oath, and what succeeded. But the Earle of S. Paule would not giue any credit to all this, when as the king gaue him a safeconduit, vnlesse he would sweare by the crosse of *S. Lau*, which was kept at Angers, the which he refused to do, hauing resolved to put him to death, and fearing aboue all things this crosse, whetupon the lord of Lescut required him to sweare before he would come vnto his seruice, and he kept his oath. The like was done in the treatie of peace betwixt *Charles* Regent of France, and the king of Nauarre, when as the Bishop of Lizieux said Masse in a tent pitcht betwixt the two armies, and receiued the oath vpon the hoste: for better assurance of the treatie, the Bishop diuided the hoste in two, giuing the one halfe to the king of Nauarre, the which he refused, excusing himselfe that he had broke his fast; neither would the Regent take the other part, so as either suspected the other of periurie. The Ancients vsed sacrifices with effusion of blood, with many imprecations and execrations against the breakers of the league: and the kings of Parthia and Armenia when they entred into any offensive and defensue league, they tied their thombs, and drawing forth the blood, they suckt it one after an other: as in the like case the king of Calange at the East Indies, making an alliance with the Portugalls, drue blood from his left hand, and rubd his face and tongue therewith. But there is no assurance in any oathes if the Prince be disloyall: and if he be iust, his simple word shall be a law vnto him, and his faith an oracle. It is forbidden by the holie scriptures to sweare by any but by the name of the eternall God, for it is he alone that can reuenge the breakers of their faith and the scornors of his name, and not they which haue neither power nor care of humane things, the which the thirtie Ambassadors of Carthage feared when as the Romans had agreed to graunt them a peace, an auncient Senator (knowing the disloyaltie of

A new kind of oath.

Philip Comines.

Tacit. Lib. 4.

In the historie of the Indies.

If the prince bee disloyall, his oath is not to be regarded.

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A of the Carthaginians) asked them in open Senat, By what gods they would sweare: they answered, that they would sweare by the same gods which had so sharply punished their disloyaltie. For he offends no lesse that thinks to mock God, than he which doth it in deed, neither is he to be credited although he hath sworne. The princes partisans of the houses of Orleance and Bourgonne did sweare sixe treaties of peace in lesse then twelue yeares, and not any one was kept, as we read in our histories. And for that among all the treaties made among princes, there is not any one that hath more need of assurance, and that is more difficult to entertaine, than that which is made with the subiect, hauing conspired against his prince; I am of opinion that in this case the treatie should be made with neighbour princes, to warrant the subiects, or else speedily to depart the countrie. And if any one will obiekt that the subiect ought not to haue any safegard or protection from his lord, as it was adiudged by a decree of the court of Parliament for the Earle of Tonerre, I confesse it: But I say, the subiect must either do thus, or else depart the countrie, when they haue to do with a soueraigne Prince. For there is no greater torment vnto a Prince, than to be forced to capitulate with his subiect, and to keepe his faith with him. *Lewis* the 11 gaue a good testimonie thereof to the Duke of Nemours, to the Earle of S. Paul, to the Duke of Brittanie, to the Earle of Armaignac, and to all his subiects that had rebelled, all which almost hee put to death; and the historie of Flanders puts his owne brother in the number, affirming that he was poisoned. And not long since the yonger brother to the king of Fez besieged the king his brother with an armie, and forced him to conclude a peace with such conditions as he pleased, and then he entred into the Castell with a small traine to do his homage, but sodenly he was strangled by the kings commandement, and cast out at a window in view of his armie, which hauing lost their head, yeelded presently. In like sort the Duke of Yorke hauing taken armes against *Henry* the sixt king of England, hauing gotten the victorie he made an agreement with the king vpon condition that after his decease the Crowne should come vnto the house of Yorke; and the prince of Wales, sonne to king *Henry* the 6 should be excluded, and in the meane time he should remaine Regent of England: but soone after being taken he was beheaded with his accord, being crowned with a crowne of white paper. You must not gall the Lion so hard as the bloud may follow, for seeing his owne bloud and feeling the smart, if he haue his libertie he will be reuenged: I would I had not so many examples as haue bin seene in our time. But when as I say it is necessary that neighbour princes and allies be comprehended in the treatie made betwixt the prince and his subiects as pledges and warrants, I do not meane that it shall be lawfull for forraigne princes to thrust their neighbours subiects into rebellion, vnder coulor of protection or amitie: and in truth the beginning and spring of all the warres betwixt king *Francis* the first, and the Emperour *Charles* the fift, was for the protection of *Robert de la March*, whom king *Francis* receiued, as *du Bellay* hath well obserued. But a wise prince may meditate an accord betwixt another prince and his subiects, and if he finds that the outrageous proceeding of a Tyrant against his subiects be irreconcilable, then ought he to take vpon him the protection of the afflicted with a generous resolution: as that great *Hercules* did, who purchased to himselfe immortall praise and reputation, for that he tooke vpon him the protection of afflicted people against the violence and crueltie of tyrants (which the fables call monsters) whom he went through the world to conquer: wherein the auncient Romans did also exceed all other nations. And without any more search, king *Lewis* the 12 receiued into his protection the Bentiuoles, with the houses of Ferrara and Mirandula, against the oppression of pope *Iulio* the 2: but he caused to be inserted into the protection, That it was without prejudice to the rights and dignity of the Ro-

The manner is to capitulate betwixt the prince and the subiect

Meierus.

In what case a forren prince may take vpon him the protection of another princes subiects.

man church : and for the same cause king *Henry* the 2 tooke the protection of the same F
 princes of *Mirandula* against the violence of pope *Iulio* the 3, and of many princes of
 Germanie against the Emperour *Charles* the 5 for the libertie of the Empire, and enter-
 tained the league of the sea townes which the Emperour sought to breake, & to change
 the Empire into an hereditarie kingdome else he which persuadeth : another Princes
 subiects to rebell vnder colour of protection (which should be as a holie anchor for
 people vniustly tyrannized) he doth open the gate of rebellion to his owne subiects,
 and brings his owne estate into danger, with an euerlasting shame and dishonor. And
 therefore in all societies and leagues among princes it is alwaies excepted, That the one
 shall not take the protection of anothers subiects, whether the cause be iust or vniust.
 The only reason which hindred the treatie of peace betwixt king *Antiochus* the great, G
 and *Ptolomie* king of Egypt, was the protection of *Acheus*, who of gouernor of Asia
 had made himselfe king, and had withdrawne it from his soueraigne prince, as *Polibius*
 saith. And for this cause *Sigismond Augustus* king of Polonia, to haue peace with the
 king of Muscouie, was forced to leaue the protection of *Rigie* in Liuania. And whatso-
 euer some say, that it is lawfull for the vassall to free himselfe from the subiection of his
 lord, if he be ill intreated ; it is to be vnderstood of an vnder vassall, which hath recourse
 vnto his soueraigne lord, and not of a leege vassall which holds immediatly, and with-
 out the meanes of any other vassall, who in some other respect may be a soueraigne :
 as the subiects of Guienne and of Poitou rebelled iustly against the king of England
 vassall to the king of France, for that he denied them iustice, and for that cause he was H
 deprived of those fees which he held on this side the sea, according to the Canon law,
 although that many are contented to take away the iurisdiction only. And of late daies
 the Geneuois expelled the Marquis of Final out of his estate at the complaint of his
 subiects, and tooke them into their protection : who whenas hee complained vn-
 to the Emperour of the wrong which was done vnto him, the Geneuois answered,
 That they had freed but their owne subiects from the tyrannie of the Mar-
 quis : yet hee preuailed against them, notwithstanding they pleaded that hee was
 their vassall. Else euery one might vnder colour of ill vsage rebell against his lord, and
 put himselfe in the protection or subiection of another : as some subiects of the Duke of
 Sanoy, hauing been thirtie yeares or thereabouts vnder the seigneurie of Berne, seeing I
 now that they would turne them ouer to their antient lord, they beseeched the Bernois
 instantly, not to abandon them, being afraid of ill vsage : but they were denied their re-
 quest, as I haue vnderstood by letters from the Ambassador *Coignet*. And although
 that hee that is banished by his prince may be receiued into protection by another
 prince, or into subiection, without any breach of the treatie (which forbids the recei-
 uing of another princes subiects into protection) for that those which are banished for
 euer, are no more subiects : but if those banished men would attempt any thing against
 their auntient Lord, the prince which hath receiued them ought not to suffer them.
 And therefore the princes of Germanie sent Ambassadors to king *Henry* the 2, to re-
 quire him not to receiue *Albert* Marquis of Brandebourg into his protection, being K
 banished by a decree of the Imperiall Chamber: the king made answer in the moneth
 of August, in the yere 1554, That although the house of France had alwaies been the
 support of afflicted princes, yet would he not shew any fauour vnto the Marquis a-
 gainst the holy Empire. Yet notwithstanding if the prince exceeding others in power
 and dignitie, be duly informed that another princes subiect be tyrannized, he is bound
 not only to receiue him into protection, but also to free him from the subiection of ano-
 ther, as the law takes the slaue out of the power of a cruell maister : but it more becometh
 to free the subiect from the subiection of another, and to set him at libertie, than to sub-
 iect

When the vassall
 may free himselfe
 from his lord.

- A iect him to himselfe, as the Romans did all Greece and Macedonie, which they deliuered from the dominion of kings, to set them at full libertie. So did pope *Agapet* (who freed the successors of *Gautier d' Iuetot* from the subiection of the kings of France, for that king *Lothair* had slaine him with his owne hand in the Church, at what time as he craved pardon of him) to giue example to other princes not to vse any such cruelties to their subiects: and for the like crueltie *Henry* king of Sweden was expelled his estate by his owne subiects, in the yeare 1567. But it was held very strange that pope *Iohn*. the 22 in the treatie made betwixt *Philip* the long king of France and the Flemings, caused it to be set downe, That if the king did infringe the treatie, it might be lawful for his subiects to take armes against him, to the which the Princes and Barons of France did oppose, causing that clause to be razed; and it was more strange that it should come out of the mouth of a french pope, a naturall subiect to France, and who had once been Chancellor. But the prince may well sweare that if he breake the treatie made by him, his subiects shall be freed from their obedience, as it was in the treatie of Arras, and hath been vsed among our first kings of this realme: as in the treatie which was made betwixt *Lewis* and *Charles* the bald brethren, the oath which either of them made was with this condition, That if it chanced, which God forbid, that I should breake my oath, I then absolue you from the faith which you owe me. *Lewis* swate first in the Roman toong these words which follow, the which the President *Faucher*, a man well read in our Antiquities, did shew me in *Guytard* an historian and prince of the bloud, *Pro deo amur, & pro Christian poblo & nostro commun saluament dist di en auant, inquant des sanir podir medunat, si saluerio cist meon fradre Karle, & in adiudha, & in cad vna causa si com hom par dreit son fradre saluar dist, ino quid il vn altre sifaret. Et abludher nul plaid nunquam prindray qui meon vol cist, meon fradre Karle in damno sit*: That is to say, For the loue of God and the Christian people, and for our common health from this day forward, so long as God shall giue me knowledge and power, I will defend my brother *Charles*, and will aide him in euery thing as any man by right ought to saue his brother, and not as another would do: And by my will I will haue no quarrell with him, if my brother *Charles* doth me no wrong. King *Lewis* hauing made an end of this oath, king *Charles* spake the same words in the Germaine toong thus, *In God est &c.* Then both the armies subiects to the two princes swate thus, *Si Ludouigs sagrament que son fradre Carlo iurat, conseruat, & Carlus meo sencer de suo par no lostaint, si io retornar non luit pois, ne io veuls cui eo retornar ne pois, in nulla adiudha contra Ludouig*: That is to say, If *Lewis* keepes his oath made with his brother, and *Charles* my lord for his part doth not hold it, if I cannot preuent it, I will not returne with him in peace, nor do him any obedience. The subiects of *Charles* swate in the Roman toong, and the subiects of *Lewis* in the Dutch. But to returne to our purpose: it is dangerous to take the protection of another, especially of those which are subiect to princes allies, but vpon a iust cause, so is it more strange to leaue an associat in danger.
- E But it is a question, whether a prince may take the protection of another prince vniustly oppressed, without breach of the league: for it is most certaine that we aide priuate allies and common allies, if they be wronged by one of the allies: but he that is not comprehended in the leagne, may not be defended against him that is allied, without breach of the league: on the other side it is a thing which seemes very cruell, to leaue a poore prince to the mercie of one more mightie that doth oppresse him and seekes to take his estate from him.

If one that is in league may succour him that is not allied against his associat, being wrongfully oppressed.

The Senat of Rome was much troubled herewith, for that the Capouans being assailed, & vniustly oppressed by the Samnites, had recourse vnto the Romans, who had a good desire to aid them: considering withall, that the Samnites would be too mightie

tie & insupportable, if they had once seized vpon the Seigneurie of Capoua, and that it was a meanes to subdue the Romans: notwithstanding it was resolved by the Senat not to giue any succours vnto the Capouans, considering the league which they had sworne with the Samnites, *Tanta utilitate* (saith *Titus Liuius*) *fides antiquior fuit*, Faith was of more respect than so great a benefit. I will set downe word by word, the answer which was made vnto the six ambassadours, the which deserues to bee grauen in letters of gold, *Legatis Campanorum auxilia contra Samnites petentibus, Consul ex auctoritate Senatus sic respondit: Auxilio vos Campani dignos censet Senatus: sed ita vobiscum amicitiam institui par est, ne qua vetustior amicitia ac societas violetur: Samnites nobiscum fœdere iuncti sunt: itaque arma Deos prius quàm homines violatura, aduersus Samnites, vobis negamus: Legatos sicut fas est, precatum ad Socios mittimus, ne qua vobis vis fiat*, The Confull with the authoritie of the Senat did answer in this sort vnto the ambassadours of the Campanois, demaunding succours against the Samnites. The Senat holds you of Campania to be worthy of succours, but it is fit so to ioyne friendship with you, as a more auncient league and societie may not be violated: the Samnites are linkt vnto vs in league, and therefore we denie you armes against the Samnites, whereby we should wrong the gods rather than men: but we will send ambassadours (as we may lawfully) to request our associats, not to offer you any violence. The ambassadours of Capoua had a secret charge, to offer the subiection of Capoua vnto the Romans, in case they should refuse to giue them succours: who seeing themselves reiected, made this offer, *Quandoquidem nostra tueri non vultis, vestra certe defendetis: itaque populum Campanum urbemque Capouam, agros, delubra Deum, diuina humanaque omnia in vestram P.C. populique Romani ditionem dedimus: Tum iam fides agi visa, deditos non prodi*, Seeing you will not protect vs and ours, yet at the least you shall defend your owne: we yeeld therefore into your power. O reuerent fathers, and of the people of Rome, the people of Campania, and the citie of Capoua, with their fields, churches, and all diuine and humane rights. Now is your faith ingaged, not to betray them that yeeld vnto you. Whereby it appeares, that the stranger is not to be succoured against the allie, vnlesse he yeeld himselfe a subiect vnto him whose protection he pretends: for in that case euery one is bound to defend his subiects against the iniuries of the mightie. If the Athenians had made the same answer to the Corcyrians, demaunding aid against the Corinthians their allies, they had not fallen into a warre which set all Greece on fire for the space of twentie eight yeres, and was not ended, but with the ruine of the Athenians, who were made subiect vnto the Lacedemonians, as they had deserved, what colour of iustice soeuer they pretend, that the league ought to cease if one of the associats doth make warre vniustly against a straunger. If this interpretation might take place, there should be no league nor alliance vnbroken. And therefore in contracting of leagues and new societies, the more auncient associats (although they are held to be excepted by law) must be precisely excepted: so as no aid is to be giuen vnto the latter confederats against the more auncient, vnlesse they haue first begun the warre. As in the league made betwixt the house of Fraunce and the Cantons of the Swissers, in the yeare 1521, in the which the auncient allies were excepted: but there was a derogatory clause, in these words, If the auncient allies did not make warre against the king of Fraunce, which was the principall subiect of the treatie. But it may so fall out, that three princes being in league, one may make warre against the other, and require aid of the third. In this case there are many distinctions. If the treatie of alliance be but of amitie and friendship, it is most certaine that he is not in that case bound to giue any succours, if the treatie imports a defensue league, he must aid the most auncient ally by a precedent alliance: If the associats be of one standing, he owes succours vnto him that

A stranger is not
to be succoured,
against an ally,
vnlesse hee make
himselfe a sub-
iect.

- A is vnited vnto him by an offensive and defensue league. If it be offensive and defensue of all parts, he must not succour neither the one nor the other: but he may well mediat a peace, and cause their quarrels to bee compounded by their common allies: as it is commonly vsed, making warre against him that will not referre his cause to arbitrators, or yeeld to their arbitrement, as it is expressely set downe in the treatie of Stance, made betwixt the eight Cantons. Arbitrements are not to be reiected, how great soeuer princes be: as *Henry* king of Sueden did vpon the controuerfies hee had with the king of Denmarke, who offered to referre his cause to *Henry* the second, king of Fraunce: the which the king of Sueden refused, saying, That he was as great a king as the rest. But the Romans, who exceeded all nations in riches and power, if they had any controuerfie with their allies, they refered it to the arbitrement of their common confederats, *Romanus Legatus* (saith *Titus Livius*) *ad communes socios vocabat*. And if it be not lawfull by the law of armes, to allow of the combat, when there is any prooffe by witnesse or otherwise, what an iniustice were it, to suffer two princes or states to enter into warre, if a third may reconcile them, or els ioynè with him that is wronged. It were a simple part to suffer his neighbours house to burne, the which hee might quench with his honour. Moreouer it may be doubted, whether the league be broken, if thou shalt offer violence to any confederats father or brother, being not comprehended in the league. If they bee subiects, there is no question: if they bee absolute of themselves, it may be doubted; for that the father and the sonne are held to be all one: but in my opinion there is nothing done against the league, vnlesse the fathers person were excepted in the treatie. And although the father may pursue an iniurie done vnto his sonne by action, yet may he not attempt warre by the law of armes, for a sonne that is out of the fathers iurisdiction, and not excepted in the treatie, although hee bee wronged by his confederats: for that the fathers power hath nothing common with the lawes of armes and maiestie; much lesse may the league be broken for brethren that are wronged. But to auoid all these inconueniences, the most safest way is, to limit all leagues to a certaine time, to the end they may add or take away from the treatie, or giue ouer the league altogether, if they thinke it expedient for them: and especially betwixt Popular estates and those which are governed Aristocratically, the which neuer die. For in Monarchies societies and leagues are dissolved by the death of princes, as wee haue said. Yet princes making treaties with Seignities and Popular states, haue beene accustomed to continue the time of the league after the princes death: as it was in the league betwixt the Cantons of the Swislers, and *Francis* the first, where the time was limited for the kings life, and five yeares after, and since it hath alwayes so continued: but that condition did bind the Swislers, and not *Francis* his successor, who might at his pleasure hold, or go from the league: for that an oath is personall, and to speake properly, cannot be taken for the successor.

The Roman legat did appeale to their common confederats.

Leagues must be limited to a certaine time.

- But some one will say vnto me, That the first clause in all the auntient treaties and leagues, which the Romans made with other states and Seigneuries, was, That they should be perpetuall. And therefore the Hebrewes did call the strongest and best assured alliances, treaties of salt, for that salt of all things compounded of the elements, is least corruptible: as they also call a statue or image that is euerlasting, A statue of Salt, not that the holy Scripture meanes, that *Lot's* wife was turned into a salt stone, as many belecue. But in my opinion there is nothing more pernicious in treaties than to make them perpetuall: for he that feelles himselfe any thing ouercharged with the treatie: hath reason to breake it, seeing it is perpetuall: but if it be limited, hee hath no cause to complaine. Moreouer it is easie to continue leagues and alliances already made, and to renew them before the time prefixt be expired: as hath beene alwayes done with

the Cantons for these fiftie yeates : and although we were assured of a perpetuall amitie and friendship, and that there should bee no cause of griefe or dislike, yet friendships grow cold, and haue need to be reuiued and quickned by new treaties. And therefore in the treatie betwixt the Vallesians and the five small Cantons, it is set downe in the last article, that the league should be renewed euery tenth yeare. And in the treaties betwixt the eight Cantons it is said, that the alliances should be renewed euery five yeares. The Romans did sweare a league and perpetuall amitie with the inhabitants of Laurentum, and yet was it renewed euery yeare, *Cum Laurentibus (inquit Linus) renouari fœdus iussum, renouaturque ex eo quotannis post diem decimum Latinarum*, Beeing commaunded (saith *Linus*) to renew the league with the Laurentines, it was thereupon renewed euery yeare after the tenth day of the Latines. And the same author saith, *Adire iussi sunt Legati Romani Cretam, & Rhodum, & renouare amicitiam simul, speculari num sollicitati animi sociorum ab rege Perseo fuissent*, The Roman ambassadours were commaunded to go to Creet and Rhodes, to renew the league, and to discouer if their confederats minds had bene corrupted by king *Perseus*. There was a league of perpetuall friendship made in the yeare 1336, betwixt *Philip* of Valois, and *Alphonso* king of Castile : and afterwards it was renewed betwixt king *John* and *Peter* king of Castile, in the yeare 1352 : and betwixt *Charles* the fift, king of Fraunce, and *Henrie* king of Castile : and yet euery one of these leagues was made perpetuall for the associats and their successors. As was also betwixt the houses of Scotland and Fraunce, for these three hundred yeares, that they haue continued in good and perpetuall league and amitie, vnto the yeare 1556. There is also another reason why the time of leagues and alliances should be limited, for that there is an ordinatie clause annexed to all treaties, Not to make any peace or truce, or to enter into league with a common enemy, or with them that are not comprehended in the treatie, without the consent of all the associats, or of the greatest part : But if one of the allies will not consent thereunto, must the rest be engaged in his hatred, and in a continuall warre, if the league bee perpetuall? That were against all diuine and humane lawes, if the occasion of this hatred doth cease, and that a peace may be made without the preiudice to the allies. But this clause is ill practised, for if any one of the associats hath an intent to goe from the league, hee is so farre from demanding the consent of the rest, as sometimes he doth treat so secretly, as all is concluded before that any thing can be discovered, and oftentimes they abandon their associat vnto their enemies. We haue a notable example in our memorie, of the treatie of Chambort, made in the yeare 1552, betwixt the king of Fraunce of the one part, and the duke *Maurice*, the marquesse *Albert*, and the Lantgraue of Hesse on the other ; where it is said in the two & twentieth article, That if any of the associats should make any peace or agreement, or haue any secret practise with the emperor, or his adherents, without the consent of his other allies, he should be punished as a periured, without all remission, in the view of all the armie. And yet within six moneths after, the elector *Maurice* agreed with the emperor at a treatie at Passau, neither aduertising king *Henrie* (who was chiefe of the league) nor yet comprehending him in the treatie. Against whome the marquesse *Albert* exclaimed, saying, That it was a base and villanous act, calling the duke traitor, and disloyall to his countrey, the emperor, and the king of France. And yet he did worse than his companion : for after that he had drawne great summes of money from the king, he turned to the emperor, and made open warre against the king : so as the imperiall souldiours called *Maurice* Bachelor, or Graduat, & *Albert* Doctor, for the notable tricks which he plaied. And of late memorie the Seignurie of Venice concluded a peace with *Sultan Selim*, so secretly, as it was published at Constantinople, at the comming of the French ambassadour, before that any one of

Treaties betwixt
the Kings of
France & Spaine

The league be-
twixt the French
and Scots,

The treatie of
Chambort.

The princes of
the empire in the
protection of the
king of Fraunce.

Why Marquesse
Albert was cal-
led Doctor.

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- A the confederats of the holy league was aduertised thereof, although it were expressly forbidden in the treatie, that not any one of the confederats might make a peace or truce with the Turke, without the consent of all the rest. So the auncient Romans hauing to doe with faithlesse and disloyall people, they did not willingly conclude a peace, but a truce for many yeares, as they did with the Veientes, *Veientibus pacem petentibus in annos centum inducie date*, The Veientes requiring a peace, they had a truce graunted them for an hundred yeares. And in another place, *Inducia Veientibus pacem petentibus in annos 40 date*, A truce of fortie yeares was graunted vnto the Veientes, who demaunded a peace. And in another place, *Cum populo Cerite inducias in centum annos factas*, There was a truce made with the people of Cerites for an hundred yeares. And
- B in another place, *Hetruriae populi pacem petentes in annos 30 inducias impetrarunt*, The people of Hetruria demaunding a peace, they obtained a truce for thirtie yeares. For alwayes a truce is more holy, and lesse violable than a peace. And if wee shall well obserue the end of those which haue broken any truce, we shall find that it hath bene miserable, and many times the ruine of states. So the Romans haue alwayes punished severely the breakers of any truce: the first example was showne vpon the person of *Metius* Dictator of the Albanois, who was pulled in peeces with foure horses, and the citie of Albarated: the people of Veientes were rooted out, hauing rebelled seuen times against the articles of the truce: the citie of Carthage was burnt to ashes: the people of Capoua flaine for the most part, and the rest made slaues: the inhabitants of Corinth massacred, and their citie burnt to ashes: the Samnites were ruined, hauing infringed their faith seuen times, as we read in *Titus Livius*, *Strabo*, with infinit others, which were impossible to set downe in particular, which carrie an euermlasting testimonie of Gods iust iudgements against treacherous and disloyall princes, and faithlesse people, which mocke at oathes. As for treacherous and disloyall subiects, they were neuer vnpunished, *In Veliternos veteres ciues grauitur seuitum, quod toties rebellarent, muri dieiecti, Senatus abductus*, They punished the Veliternians (who were auncient citisens) verie severely, their walles were cast downe, and their Senat carried away. And after the second Punike warre, the Roman subiects which had bene traitors were excepted, *Perfuge (inquit Livius) bello punico 380 Romam missi, virgis in Comitio cæsi, & de Saxo dieiecti*, In the Punike warre 380 runnawayes (saith *Livius*) beeing sent to Rome, were whipt in the open assemblie, and cast downe the rocke. And if the enemy hauing giuen hostages, did infringe their treaties, the hostages were publikely put to death: as it happened vnto three hundred hostages of the Volsques, which were flaine: and in like case the hostages of the Tarentines, *Fugientes retracti, ac virgis diu cæsi, de Tarpeio deiecti sunt*, Fleeing they were fetcht backe, and being beaten long with rods, they were cast from the mount Tarpeia (saith *Titus Livius*.) But since that they haue made a trade of the breach of faith, they haue also made a conscience to put hostages to death: as *Narses*, who pardoned the hostages of the Luquoies, hauing broken their faith: and *Charles* duke of Bourgogne had no sooner set three hundred hostages of the Leugeois at libertie (the which he might iustly haue put to death; whatsoeuer *Comines* saith) but they attempted a new warre against him.
- E The clause that hostages should be subiect vnto capitall punishments, was vnknowne to the auncients, for it was alwayes lawfull not only to kill hostages that fled, but also if they that had giuen hostages had infringed their faith. But since they haue thought it fit to expresse those words in their promises, least that hostages should pleade ignorance of the law of armes, or that it should seeme too cruell that one should suffer for anothers offence. I will not denie but the Romans haue somewhat blemished the brightnes of their auncient integritie and iustice, the which happened vnto them not so much

*Liv. lib. 3.
Decad. 2.
7. lib. 2.
8. lib. 7.
9. lib. 9.*

Liv. lib. 8.

Liv. lib. 35.

much through their owne fault, as by the Grecians and Carthaginians, whose treacherie they had often tried: witnes that which *Liui* writes of the Ambassadors that were sent into Grece, when as they made report of their charge in open Senat he saith thus, *L. Martius & Attilius Romam reuersi, nulla alia re magis gloriabantur, quam decepto per inducias & spem pacis Rege, quæ magna pars Senatus probabat: sed veteres moris antiqui memores, novam istam sapientiam improbabant, nec astu magis quam vera virtute bel- lage fuisse maiores, denunciare bella, & sæpe locum finire, quo dimicanturi essent.* *L. Martius* and *Attilius* being returned to Rome, gloried in nothing more, than that they had circumvented the king with a truce, and the hope of peace: the which the greatest part of the Senat did allow of, but the most auncient (remembering their customes of old) did disallow of this new kind of wisdom, for that the auncients did not make warre by craft and pollicie, but by vertue, proclaiming warre, and oftentimes appointing the place where they would fight. Yea they were accustomed to renounce their alliance and friendship that had wronged them, before they would begin any warre. *Veteres*, saith *Suetonius*, *bellum indicturi, renunciabant amicitiam*, The auncients when they would make warre against any one, they renounced his friendship: a custome which was obserued among priuat men, euen in the time of the Emperour *Tiberius*: for *Germanicus* being grieuously wronged by *Piso* gouernor of Soria, sent him word that he renounced his friendship: and *Henry* the 5 king of England sent word to *Lewis* duke of Orleance by his ambassador, That he could not defie him, vnlesse he renounced his friendship, and sent back the alliance. And at this day those which be brethren in armes, and princes which do weare one anothers order, they send back the order before they make warre. But the Greeks who had taught the Romans their deceits and disloyalties, were punished, as we may see in *Liui*, where he saith, *Phocenses cum pacti essent nihil hostile se a Romanis passuros portas aperuerunt, tum clamor est sublatu à militibus, Phocenses nunquam fidos socios, impune eludere: ab hac voce milites urbem diripiunt, Æmilius primo resistere, captas, non deditas urbes diripi*, The *Phocenses* when they had contracted that they would not indure any hostile acte of the Romans, they opened their gates; then began there a crie among the souldiers, that the *Phocenses* being neuer faithfull associates did laugh at them unpunished: at this crie the souldiers spoile the towne, at the first *Æmilius* made resistance, saying, That they vsed to spoyle cities that were taken by force, and not that yeelded. But the Romans to repaire this error, left their citie in full libertie, and restored them the lands they had taken from them. So *Potibius* who was a Greeke borne, and gouernor to *Scipio* the Affrican, speaking of the Greeks, saith, That a word among the Romans was sufficient, but in Greece for the lending of a hundred crownes they must haue ten notaries, and twise as many scales; and yet would they breake their faith. But it is far worse at this day, where there is no assurance neither in letters, scales, nor safegards, yea ambassadors are not assured, for we haue seen *Rincon* and *Fregose* ambassadors to the king of France slaine by the officers of the Emperour *Charles* the 5, and yet no iustice was done of them: whereas the Romans deliuered *Minutius* and *Manlius* to their enemies, and at another time *Fabius* and *Apronius*, to dispose of them at their pleasures, for that they had somewhat wronged the ambassadors, the which is forbidden by the law of armes. If faith be not kept with ambassadors, what shall we hope of others? yea some haue gloried in killing them, as *Helene* Queene of Russia, being intreated by her enemies to make a league, to the end she might marrie with their king, she buried all the ambassadors aliue; and before they were aduertised thereof, she sent them word that she would haue ambassadors of greater worth, whereupon they sent her fiftie more of the noblest of the whole countrie, all which she caused to be burned aliue, and vnder promise of marriage she murdered

Liui. lib. 42.

Tacit. lib. 5.
Liui. lib. 36.

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A murdered five thousand which she had made dronke. It is not needfull heere to rehearse how many cities and people haue been ruined and rooked out for the breach of faith with ambassadors, who are and ought to be sacred and inuiolable. And ambassadors are also to be warned that they exceed not their charge, nor speake not any thing to the dishonor of the prince or people to whom they are sent; for a wise ambassador will alwaies deliuer his charge, if in things that be odious sparingly, and in those that be pleasing full, to the end that he may entertaine princes in friendship, and appease hatred; for that princes do oftentimes fall into mortall quarrels through the indiscretion of ambassadours. Amongst many we haue the example of *Stephen Vauoide* of Valachia, to whome the *Procopé* of Tartaria sent an hundred ambassadours, threatening to waste all his countrey with fire and sword, if he sent not backe the *Procopes* sonne, whom he had taken prisoner. The *Vauoide* incensed at these threats, put them all to death, except one whome he sent home maimed of his members, to bee a messenger of this strange calamitie. Others reuenge not iniuries done vnto them by ambassadours so indiscreetly, but yet as cruelly, least they should seeme to haue broken their faith, dismissing them, and yet sending others after them to kill them: as *Tuca* queene of Sclatonia did, who sent some to murder the yongest of the three Roman ambassadours, hauing threatned her, the which was afterwards the cause of her ruine, and of her estate. But the fact of the king of Moscouie was most barbarous, who seeing an Italian ambassadour to put on his hat before he was bidden, he caused it to bee nailed fast vnto his head; a most cruell and barbarous deed, yet was there an error in the ambassador, who should hold the ranke and dignitie of the prince his maister, so as it bee not with the contempt of the prince to whome he is sent: for sometimes ambassadours relying vpon the greatness of their master, forget themselves to meaner princes, especially men that are bred vp in Popular estates, accustomed to speake with all libertie, thinke they may doe so with Monarches, who are not accustomed to heare free speeches, and much lesse that the truth should be spoken vnto them: for which cause *Philip* the young, king of Macedonie, seeing the Roman ambassadour question too boldly with him, hee could not forbear to braue him with reproaches. And *Popilius* the Roman Legat vsed *Antiochus* king of Asia with greater presumption, making a circle with a rod about the kings person, willing him to giue him answere, before he went out of that circle: here *Linie* saith, *Obstupefactus est rex tam violento imperio*, The king was amazed at so violent a commaund: and yet he did what the Romans commanded, hauing tried their power. *Marius* the elder vsed the like libertie towards *Mithridates* king of Pontus or Amasia, who although he neither were ambassadour, nor had any publike charge, yet he said vnto the king, That he must obey the commaundement of the people of Rome, or be the stronger. Then did *Mithridates* find that true which was spoken of the Romans, That they were of a freer speech than any other nation. And sometimes too great libertie without any iniurie offends princes. For which cause *Marc Anthoine* caused an ambassador which was sent from *Augustus* to be whipt, for that he talked too freely to queene *Cleopatra*. But those princes are wisest, which hauing receiued any affront from ambassadours, demaund reparation from their maisters: as *Charles* earle of Charolois, said vnto the ambassadours of *Lewis* the eleuenth, That his Chauncellour had braued him, but the king would shortly repent it; and so it fell out: for the same yere he imbarqued the king in a most daungerous warre, with the hazard of his estate. And therefore king *Francis* the first, doubting that he should heare something of an herauld which was sent from the emperour *Charles* the fift, that might bee some impeach vnto his maiestie, he caused a gibet to be set vp before the court gate, when he heard that hee approached, letting him vnderstand, that he would hang him, if he opened his mouth,

for

for hauing giuen the emperour the lie, he knew well that the herauld could not bring F
him any aunswere, without some touch to his honour and dignitie. Some there bee
that will attempt warre against their associats for any small iniurie: as the Scots did in
old time against the Picts, for taking away their dogges, hauing liued together almost
six hundred yeares in great peace and amitie. A good prince must trie all meanes, and
dissemble many things, before he come to armes. I do not agree with *Bartol*, who saith,
That the peace is not violated, if any one hath vndertaken that hee shall not bee wron-
ged, and yet his things are stolne away by him with whome he hath made a peace: for
that there was nothing that did sooner moue the antient Romans to make warre, than
for things taken away, and iniuries done. *M. Aurelius* the emperour said well, *Putas-* G
ne non aliter vim inferri quam si homines vulnerentur: vis est etiam cum quod per Indi-
cem debuit, per te ipse arripis, Doest thou thinke that violence is not offered, vnlesse that
men be wounded. It is violence, when thou takest that of thine owne authoritie,
which thou shouldest recouer by law. But some make breach of their faith, by a craftie
interpretation of the law. As that which *Bartol* proues, If by the truce it be lawfull for a
French man to passe into England, vpon condition, That if after the truce he be found
within their limits, it shall be lawfull to kill him: if before the end of the truce he depart
out of England, and by a storme is driuen backe into England after the truce expired:
in this case he saith, they may lawfully kill him. In my opinion they may ransom him
by law, but not kill him: for that he doth nothing against the truce, that by tem-
pest is cast vpon his enemies countrey. It would seeme vn- H
iust and iniurious, to repaire that which
happens accidentally with
the losse of life.

(*)

Finis Libri quinti.



A



B

THE SIXT BOOKE OF OR CONCERNING A COMMONWEALE.

CHAP. I.

¶ Of Censuring or Reformation, and wheher it be expedient to inroll and number the subiects; and to force them to make a declaration, or giue a certificat of their priuate estates.

C



Therto wee haue described at large the first part of the definition of a commonweale: that is, the true gouerning of many families with absolute power, and that which depends of the said definition. It remaynes now to speake of the second part: that is, of that which is common to an estate; and which consists in the managing of the treasure, rents, and reuennues, in taxes, imposts, coynes and other charges for the maintenance of a commonweale. And

for the better vnderstanding hereof, let vs first treat of Censuring. *Census* in proper

D

tearmes is nothing else but a valuation of euery mans goods: and for that wee are to treat of reuennues, it is verie needfull to speake of censuring, and to shew, that of all the Magistrats of a commonweale, there are not many more necessary: and if the necessitie be apparant, the profit is farre greater, be it either to vnderstand the number and qualities of the citifens, or the valuation of euery mans goods; or else for the well gouerning and awing of the subiect. And calling to mind the farthest bounds of antiquity, I doe much wonder, how so goodly a charge, so profitable and so necessarie, hath bene laid aside so carelesly, seeing that all the ancient Greeks and Latines did vse it, some yearly (saith *Aristotle*) others from three, foure, or from five yeares to five yeares, making an estimation of euery mans wealth and priuate estate: whereof *Demoſthenes* hauing made an abstract out of the publike registers, said (speaking vnto the people) that all the reuennues of the countrey of Attica did amount vnto threescore thousand talents, or thirtie six millions of crownes. Euen so the Romans (who did imitate the Grecians) could wel imbrace this custome, and bring it vnto Rome: for which cause king *Seruius* is much commended in histories. And although the people of Rome had disanulled and abolished all the edicts and ordinances of their kings, after they had expelled them, yet this law of censuring or surueying continued still, as the foundation of their treasure, imposts, and publike charges, &c. was continued in the Consuls persons. But after that the Consuls were distract & drawne away for warlike employments, they then created Censors,

The commendation of censuring, or estimating the subiects estates.

E

three-

Censors vsed by the Greeks and Romans. *Liui. anno 319. ab v.c.*

threeſcore and ſix yeares after that the Conſuls had executed it. *L. Papirius*, and *L. Sempronius* being the firſt that were called *Cenſores*, and they held the office five yeares : but ten yeares after *L. Aemilius Mamercus* limited the time of the Cenſors office to eighteene moneths. And ſoone after, this cuſtome was followed by all the cities of Italy, and namely by the Roman Colonies, who brought their Registers and Inrollments to Rome. Afterwards this charge was ſtill continued; and euen *Cæſar* the Dictator tooke the paines to go from houſe to houſe to ſupply the Cenſors charge, although he called himſelfe *Magiſter morum*, or Maſter of the manners. And as ſoone as the Emperour *Auguſtus* was returned to Rome, after his victorie againſt *Marc Antonie*, the Senate by a publike decree gaue him the office of Cenſor, calling him *Prefectus morum*, or Controller of manners, who thrice numbred the citiſens of Rome, and valued euerie mans goods : and not onely of the Citiſens of Rome, diſperſed throughout the whole empire, but of all the ſubiects of euerie prouince: And was there euer Emperour that left ſo goodly an eſtate of an empire, as he did?

Cæſar and Auguſtus were both created Cenſors.

Afterwards it was diſcontinued vnder the tyranny of *Tiberius* and *Caligula*, and reuiued againe by *Claudius* the Emperour, which made the 74 Luſtre. It was left againe vnder *Neron*, and continued againe vnder *Veſpatian*, who made the 75 Luſtre : and then it left vnder the tyranny of *Domitian*, who called himſelfe Perpetuall Cenſor, and yet made no ſuruey. A hundred and fiftie yeres after, or thereabouts, the Emperour *Decius* cauſed the Senate to declare *Valerian* Cenſor, with ample authoritie. And ſince that this office was laid aſide, the empire hath alwaies declined. True it is, that the Emperours of Greece did erect an office, which they called *Magiſtrum Cenfus*, or The maſter of inrollments, who kept the publike registers containing all teſtaments and publike acts, with the names and ages of euerie perſon; yet not with ſuch dignity and power as the auntient Cenſors. But it is certaine, that all townes ſubiect to the Roman empire, had their Cenſors, euen vnder *Traian* the Emperour, and that the Senators of euerie towne were choſen by the Cenſors, as wee may read in an epiſtle written by *Plinie* the younger to the Emperour *Traian*. And (not to goe out of this realme) we read, that king *Childebert*, at the perſuaſion and inſtance of *Marouëus* Biſhop of Poitiers, made an edict, commaunding all his ſubiects to be inrolled, and their goods to bee valued; the which is yet ſometimes put in praetiſe at Venice, Genes, and Luques, whereas there bee Cenſors created : and namely at Venice in the yeere 1566 they made three Magiſtrats to reforme the peoples manners, whom they called, *I Seignori ſopra il ben viuere dela citra*: The Magiſtrats for the well liuing of the citiſens : for that the name of Cenſor in a free citie abounding with all kind of delights, ſeemed harſh and ſeuere.

Few yeares before the creation of this Magiſtrat, hauing ſet forth my booke of the Method of Hiſtories, I did therein much maruell, that in ſo great a number of officers, wherein the Venetians did exceed other cities, they had forgotten Cenſors, which were moſt neceſſarie. The commonweale of Geneue in ſtead of Cenſors haue deputed ten Auntients, the which are choſen as magiſtrats, whereof foure are of the counſell of threeſcore, and ſix of the counſell of two hundred; which hold the ſubiects of that ſtate in ſuch awe, as few offences remaine vnpuſhed : ſo as without doubt this commonweale will flouriſh, if not through armes and wealth, yet by their vertues and pietie, ſo long as they ſhall maintaine the authoritie of thoſe Auntients. Whereby it doth plainly appeare, that the beſt and moſt flouriſhing cities could not long ſubſiſt without Cenſors : wherein many ignorant diuines abuſe themſelues, in thinking that *Dauid* was grieuouſly reprehended by God, and puniſhed,

Luſtrum.

Cenſors in effect created at Venice.

Cenſors not to be wanted in a well ordred commonweale.

A punished, for that he commaunded his people should bee numbred; when as God commaunded *Moyſes* the Emperour of the Iſraelites to doe it after their departure out of Egypt, and againe before they entred into the land of promiſe; and not on-ly to number them, but to note euerie family, and to take the name of euerie parti-cular perſon before they had conquered anie thing, the which hee ſhould leaue to poſteritie: but the fault which *Dauid* committed, was in forgetting Gods com-maundement, charging him, that when he did number the people euerie one ſhould offer vnto God two groats of ſiluer (as *Ioſeph* hath verie well obſerued) being com-maunded in the text of the law, to exact that holy tribute for an expiation of their ſinnes; ſo often as he ſhould pleaſe to haue the people numbred: then he adds, Leaft a plague ſhould be among the people. But in my opinion heerein was the greater offence, that the prince too arrogantly truſting more in the force of his legions, than in the power and helpe of the Almighty, did not number all his people, but thoſe onely that were able to beare armes, omitting the tribe of *Leui* (which attended the ſacrifice) and the tribe of *Beniamin*. And whereas the law commaunds euerie one to put halfe a ſickle, or two ſiluer groats; that is done in my opinion, to abolifh the impietie of the heathen, who taking the number of their ſubiects, offered a piece of ſiluer for euerie one vnto their gods: as alſo God commaunded they ſhould ſprinkle the bloud of the ſacrifice aboue, and of cyther ſide of the altar, forbidding them expreſſely, not to offer any more bloud vnto their deuils, that he might call his people from the inhumane and hatefull worſhip of deuils. And it ſeemes that king *Seruius* had borrowed this ceremony from the people of the Eaſt, when as hee com-maunded a boxe to be ſet in *Iuno Lucinas* temple, into the which they put a *denier* for euerie one that was borne: and another in the temple of *Iuuenta*, where they did alſo put a *denier* for euerie one that had attayned to ſeuenteene yeres of age, at what time they put on a playne gowne without purple: and the third was in the tem-ple of *Venus Libitina*, into the which they put a *denier* for euerie one that died: which cuſtome continued inuiolable, euen when as the office of Cenſor was neg-lected.

*Numb. i. 2. 3. 4.
21. 26.*

The numbring of
the people ap-
pointed by God.

D We read, that the Athenians were inrolled in the publike regiſters at the age of 14 yeres, yet wee find no mention made of the tribute. But the numbring of the people which God commaunded to be made, was but of ſuch as could cary armes, from 20 yeres vpward; in the which it ſeemes that old men aboue 60 were not comprifed, & yet they were found by pole to amount to ſix hundred thirtie thou-ſand five hundred and fifty, beſides the tribe of *Leui* which made twentie two thou-ſand, from a moneth old vpward, which was in all ſix hundred fifty two thouſand five hundred and fiftie. And fortie yeres after the number was taken, when as all thoſe which came forth were dead, except *Moyſes*, *Iofua*, and *Caleb*, they were found to bee ſix hundred twentie foure thouſand ſeuene hundred ſeuenty three, compre- hending the Leuits, beſides the women, ſlaues, old men, and youth vnder twentie yeres, which were at the leaſt twice as many. But *Titus Liuius* ſpeaking of the num-ber of the citifens that were found in Rome, ſayth in his third booke, *Cenſa ſunt ciui-um capita 415 millia, preter orbos orbaſque*, the number of the citifens is 415000 be-ſides the blind. *Florus* in his 59 booke ſaith, *Cenſa ſunt ciuium capita 313 millia 823 preter pupillos & viduas*, the citifens are numbred at 313823 beſides widdowes and pupils. Five yeres after he ſayth, *Cenſa ſunt ciuium capita 390 millia 936*, The num-ber of the citifens is 390936. And in the following ſuruey, 394356. And in the next inrollment 450000 and in the other after that 150000. I omit the former ſurueyes, which are all greater than this laſt: but it ſeemes the Citifens of Rome were not

The number of
the Iſraelites.

Exod. 124

excluded, as it may appeare in that which I haue noted, for that there were none but widowes and orphelines excepted: and yet *Florus* saith in his 27 booke, *Censa sunt 137000 ciuium, ex quo numero apparuit quantum hominū et preliorum aduersa fortuna populi Romani abstulisset*: The number of the citisens were 137000: wherby it appeares how many men the Romanes lost in their vnfortunate warres. And in the former view he sayth, *Censa sunt ciuium capita 270 millia*: The check-roll of all the citisens comes to 270000. as if he would inferre, that the losses which they had receiued against *Hanibal*, had carried away 133000 citisens: for if the women had beene comprehended which went not to the war, there had remayned none but women, for that they be alwayes as many or more than men, as I haue before shewed. And in Athens there was a suruey taken, whereas the number of women was greater than that of men, as *Pausanias* saith. But the scruple is decided by *Titus Linius*, where he saith, speaking of the seuenth inrollment, *Ciuium qui puberes essent, supra centum decem millia erant: mulierum autem & puerorum, seruorumq; & mercatorum, & sordidas artes exercentium (siquidem Romanorum nemini cauponariam, aut operosam artem tractare licuit) triplo plus quam turba ciuili*. The citisens of full age were aboue 110000 of women, children, slaues, marchants: and of those which vsed base trades (for no Roman might be a victualer or handycrafts man) the number was thrice as many as of the ciuill sort: wherby it appeares, that marchants, handycraftsmen, women, nor children, were not registred: as for slaues they were not nūbred among the citisens, but among moueable goods, the which were commonly fiftie for one: and euen in Athens there were found a hundred times more slaues than free men, by a suruey that was taken, whereas for ten thousand strangers, and twentie thousand citisens, there were foure hundred thousand slaues. And of the number that was taken at Venice about thirtie yeares since, there were found two thousand women more than men, as I haue formerly noted.

The profit that may be gathered by the numbring of the people.

The benefits which redounded to the publike by this numbring of the people, were infinite: for first they knew the number, age and qualitie of the persons, and what numbers they could draw forth, either to go to the warres, or to remaine at home; either to bee sent abroad in colonies, or to bee employed in publike works of reparations, and fortifications: thereby they shall know what prouision of victuals is necessarie for euerie citie, and especially in a time of siege, the which is impossible to preuent, if they know not the number of the people. And if there were no other benefit but the knowledge of euerie mans age, it cuts off a million of sutes and quarrels the which are inuented touching the minoritie and maioritie of persons: for which cause king *Frauncis* the first commaunded his chauncellour *Poyet*, to publish an edict, inioyning all curats to keepe a register of all such as should bee borne: but for that the registers are not kept as they ought, this law is ill obserued. And in regard of the quality, we see an infinit number of sutes touching the nobility, which should be auoyded by this meanes: and the sutes of forgerie & fallshood, for the disguising and concealing of names of the parents, countrie, estate, and qualitie, of euerie one, whether hee bee a citisen or a stranger, a bastard or lawfully borne, a nobleman or a patrician, a plebeian or a nobleman, and of what name & house he comes, for want of registers and censors can hardly be found out.

A meanes to cut off sutes.

The citisens estates are knowne by the Censors.

The citisens order is knowne.

This appeared plainly, when as *Pericles* numbred the citisens of Athens, for the prerogatiues and priuiledges they had aboue strangers, where there were found thirteene thousand three hundred and sixty citisens, and fve thousand strangers which carried themselves as citisens, and were sould for slaues by a publicke decree. Moreouer, to order and gouerne the bodies & colleges of citisens according

A to the estate and age of euerie person, as they did vse in Rome and in Greece, it is more than necessary to know the number of the subiects; to gather their voices in elections the number is also requisite; to deuide the people into tens, hundreds, and thousands, it is also necessarie to know the number of them. But one of the greatest and most necessary fruits that can bee gathered by this censuring and numbring of the subiects, is the discouery of euery mans estate and faculty, and whereby he gets his liuing, therby to expell all drones out of a commonweale, which sucke the hony from the Bees, and to banish vagabonds, idle persons, theeuers, coofeners, & ruffians, which liue and conuerse among good men, as woolues do among sheepe, spending their liues in theeuing, dising, robbing, drinking and whooring; who although they walke in darkeness, yet hereby they should bee seene, noted and knowne. And as for the valuation of goods, it is no lesse necessarie than the numbring of persons. *Cassiodorus* speaketh thus, *Orbis Romanus agris diuisus censuq; descriptus est, ut possessio sua nulla haberet incerta, quam pro tributorum suscepit quantitate soluenda*, The Roman territories were deuided, and euery priuate mans land laid out, that no mans possession should bee vncertaine, the which he had taken for the payment of a certaine rent or tribute. If then a suruey were taken of all the Roman empire, and the lands distributed accordingly, that it might bee knowne what burthen euery one was to beare in regard of the goods he inioyed, how much more necessary is it now, when as there bee a thousand sorts of imposts in euery commonweale, which the auntients did neuer knowe. This poynt is of such consequence, as it should suffice, if it serued for nothing else, but to cause euery one to bring in a declaration of his goods and reuennues: as was done in Prouence in the year 1471: whereby it did afterwarde plainly appeare that the commons were oppressed by the cleargie and nobilitie, if it had not bene provided for by an edict made by *Frauncis* the first, in the yere 1534, and by another of his successors: wherupon the three estates of Prouence (beeing growne into great sutes) were called before the Parliament at Paris, where a prouinciall decree was made, That all men of what qualitie soeuer, should pay their charges & imposts according to the register made in the year 1471, when as there were three thousand houses charged with a soulz vpon the pound, without respect of families or persons, but to the lands subiect to contribution. They were also constrained in the yere 1516. to make a suruey and declaration of all the benefices of this realme, in regard of the tithes, the which by reason of the daily alterations and changes require a newe suruey or numbring: for some Incumbent payes more than a moytie of his benefice, when as another payeth not the thirtieth part for the tithes. The like was required by *Marillas* the kings aduocate for the subsidie of Prouence.

It expels vagabonds & idle persons out of an estate.

A means to equal the charges and imposts according to euery mans estate.

E By this meanes the poore mens iust complaints shall be releued, whom the rich are accustomed to ouercharge, and to free themselues throughout all the realme of Fraunce, as well as in Prouence & Languedocke: By this meanes, mutinies (which are vsuall in euerie commonweale, for the vnequalitie of charges) shall cease: and moreouer all sutes depending before Iudges for reliefe, should be quite cut off: by this meanes the concussions, malice or fauour of the assessors and other officers, who haue charge to make an equall distribution of the tribute or impost, shall bee discovered, or at least the controuersie shall be decided by the Censors register: or else they might put in practise the custome of the antient Athenians, wheras if any one were overcharged that had lesse wealth than another, hee might force him that was lesse taxed to take his charge, or to change estates with him: as *Isocrates*, who lost against *Lysimachides*, and wonne against *Megalides*.

A means to auoid concussion and fauour in them that make deuotion of the subiects.

By this meanes yow shall know who be miserable, who prodigall, which be banquerouts, who rich, which poore, who cooseners, which vsurers, & by what gaines some get so much wealth, and others are oppressed with so great want, and how to redresse it: for that by the extreame pouerty of some, and the exceeding wealth of others, we see so many seditions, trouble, & ciuill warres arise. Moreouer, all edicts and decrees, and generally all iudgements and sentences touching fines & ameracements, should be ordred, and justice equally administred, when as euery manes estate were knowne, seeing that the punishment may not exceed the offence. Also, all deceipts in mariages, in bargaines and sales, in all priuat & publike negotiations should be discouered and knowne.

I omit a multitude of sutes touching successions, diuisions, and mortgages, the which are concealed for the most part, and should bee made plaine by the registers without search, the which should ease the subiects charge, and preuent the falshood of witnesses. It may bee some will say vnto me, That it were a hard thing to expose the pouertie of some to be scorned, and the wealth of others to be enuied. Behold the greatest argument that can bee objected to hinder so good and commendable a thing. But I answered, That all enuy will cease against those whom they hold to bee rich and are not, and the mockerie against such as haue wealth and were held poore. And shall the enuie of the malicious, or the derision of the scorner, hinder so good and commendable a thing? Neuer wise prince nor good law-maker did regard enuie or scorne, when there is question of good lawes. Although this law (whercof question is made) concernes onely moucable goods and not lands. To say, that it is neither good nor comely to know priuate mens wealth or wants, the course, traffike and negotiation of marchants; which consists most commonly in bookes of credit, nor to lay open the secrets of families; I answered, that there are none but cooseners & deceiuers that are loth to haue their liues laid open, & their actions knowne: good men that feare not the light, will bee alwaies glad to haue their estates knowne, with their qualities, wealth and maner of liuing. An Architect said one day to *Linus Drucius* the Tribune, That he would make the lights of his house in such sort, as no man should ouer-looke him: To whom *Drusus* answered, I pray you make it in such sort as euery one may looke into it & see mine actions. *Velleius Paterculus* who writes the historie saith, that this man was *sanctus & integer uita*, of a holy & vpriight life. But the office of Cenfor is chiefly against the wicked: And in old times euery Roman kept a register of his actions and expences, and of all his goods: But vppon the declining of the empire, when as vices began to spring vp, they neglected it, saith *Asconius*, for that many were condemned by their registers. And I find not that euer any but tyrants theeuers and bankerouts hated the office of Cenfor, and haue hindred all they could the valuation of goods, as I haue noted of *Tiberius*, *Caligula*, *Nero*, and *Domitian*. It is therefore a meere mockery, to pretend that this would bee a meanes for tyrants to oppresse their subiects with exactions: for there is no tyrant so cruell, but he wil more willingly take from the rich than from the poore; wheras for want of a Cenfor the poore are pinched, and the rich saue themselues. We also see that by the practises of the vsurers & the rich citisens of Rome, of six Censors chosen successiue-ly in one year, not anie one could intend his charge: whereupon the Tribunes making their complaints before the people said, That the Senatours feared the registers and publike informations, which discouered euery mans estate, and their actiue and passiue debts, whereby they should find, that some of the Citisens were oppressed by the others, and ruined by the vsurers. And then the tribunes protested, that they would not suffer any debtour to bee adiudged to his creditors, nor inrolled to go to the

A notable answer
of a Tribune,

The Cenfor hate
full to the wicked

A the warres, vntill they had first seene a declaration of the debts, to the end they might prouide as they should find it needfull. Then did the debtors flocke together about the Tribune, to giue him ayd and assistaunce. Why should a good creditor feare to haue his debts and contracts viewed, or his lands (lawfully purchased) knowne? why should he hinder the knowledge of his goods, lawfully gotten by his industrie and labour? It shalbe alwaies honorable vnto him; and if he be an honest man, if he loues the preseruacion of the common weale, and the reliefe of the poore, he will make no difficultie to giue a declaration of his goods for the reliefe of the publike, if need shall require. If he be wicked, if hee bee an vsurer, an extortioner, a publike theefe, and a robber of priuate men, he hath reason to oppose himselfe all he can, that his goods, his life, nor his actions may be knowne: but there is no reason to aske the vinteners aduice if they shall suppress alehouses; or the strumpet, if they shall put downe the stues; nor of bankers, if they shall abolish vsurie; nor of the wicked, if they should haue Censors.

The auncient Greeks and Latines haue alwaies spoken of censuring, as of a diuine thing, the which hath alwayes preserued the greatnesse of the Roman empire so long as Censors were in credit. *Titus Liuius* speaking of king *Seruius*, who first ordained that euery one should giue a certificate of his goods, saith, *Censum instituit rem saluberrimam tanto imperio*, He instituted the office of Censor, a wholesome thing for so great an empire. But after that Censors were created in the Consuls place, and that

C by little and little they began to take knowledge of the life and manners of euery one, then began they to respect the Censors, and to reuerence them more than all other magistrats: whereof *Titus Liuius* saith, *Hic annus Censurae initium fuit, a parua origine orta, qua deinde incremento aucta est, ut morum disciplinaeque Romanae penes eam regimen, Senatus, equitumque, centuriae, decoris, dedecorisque, discrimen sub ditione eius magistratus, publicorum ius, priuatorumque, locorum vectigalia populi Romani sub nutu atque arbitrio essent*, This yeare was the beginning of the Censors office, springing from a small matter, the which was afterwards so augmented, as hee controlled the manners and discipline of the Romans, the assemblies of the Senate, and of knights, also the distinction of honour and infamie were subiect to this magistrat; and the publike rites, with the reuenues of priuate places belonging to the people of Rome, were censured by him. The Censors office then was to receiue the number of the persons, and the valuation of their goods, to be superintendant of the treasure, to farme out the imposts, customes, and all the reuenues of the commonweale, to reforme abuses, to place and displace Senatours, to dismisse the men at armes, and to censure the life and manners of euery one. *Plutarch* speakes in a higher stile, terming the office of Censor, Most sacred and mightie. It may be some will say, that the charge was ouer great: yet two Censors were sufficient in so great an empire. But their charges may be deuided: for to place and displace Senators, that charge was giuen vnto the Censors, to ease the people, saith *Festus*: the which could not be done in a monarchie, whereas the prince makes choyce of all magistrats, especially of his counsell. Yet it were necessarie, that the ouerseers of the treasure should be true Censors, that is, men without blame or reproch: for you must alwayes commit the purse to the most trustie, and the reformation of abuses to the most vpriight. As for the reformation of abuses, it is the goodliest thing that euer was inuented in any commonweale, and it hath best maintained the greatnesse of that empire: for euen as the Censors were alwayes chosen out of the most vertuous men of the commonweale, so did they strue to conforme the subiects to the true patterne of honour and vertue. This was done from fife yeres to fife yeres: & after that they had seded the estate of

The opinion of the auncients touching Censors.

The charge of the auncient Censors.

The Censors reformers of abuses.

the

the treasure, and farmed out the reuenues. And if they discontinued this charge (as oftentimes it fell out by reason of the tediousnesse of the warres) then did it plainly appeare, that the people grew corrupted in manners, and that commonweale declined, like vnto a bodie which leaues his ordinarie purging: this was manifest during the second Punike waire, when as they had no time to attend that charge conueniently, but as soone as *Hannibal* was retired into the territories of Naples, then the Censors (saith *Titus Linius*) *Ad mores hominum regendos animum aduerterunt, castigandaquē vitia, quæ velut diutinos morbos ægra corpora ex sese gignunt, nata bello erant*, The Censors applyed themselves to reforme mens manners, and to punish vices, the which had sprung vp by reason of the warres, as continuall feauers doe in sicke and corrupt bodies. And yet they dealt not with any abuses, but such as were not to be censured by the Iudges: for the magistrats and the people tooke knowledge of murthers, parricides, thefts, concussions, and such like crimes, the which are punished by the lawes. Is it not sufficient, will some one say, to punish crimes and offences by the law? My answer is, That the lawes punish those offences onely, which trouble the quiet of a commonweale: and yet the greatest offenders doe easily escape the punishment of the law, euen as great beasts do easily breake through the spiders web. And who is so ill aduised, as to measure honour and vertue by the lawes? *Quis est* (saith *Seneca*) *qui se profitetur legibus omnibus innocentem? ut hæc ita sit, quàm angusta est innocentia ad legem bonum esse: quanto latius patet officiorum quàm iuris regula? quàm multa pietas, humanitas, liberalitas, iusticia, fides exigunt, quæ extra publicas tabulas sunt!* What is he that professeth himselfe an innocent by all lawes? how strict is innocency, to bee good according to the lawe? how much larger are the rules of dutie than of lawe: how many things doe piety, humanity, liberalitie, iustice, and faith, challenge at our hands, the which are not inserted in the publike tables? It is manifest, that the most detestable vices, and that most corrupt a commonweale, are neuer called into iudgement. Treacherie is not punished by the law, beeing one of the most abominable vices: But the Censors (saith *Tully*) were not so curious of any thing, as to punish periury. Drunkenesse, gaming, palliardise, and loosenesse of life, are suffered with all impunity; and who can redresse these disorders but the Censor? We see most commonweales swarmed with vagabounds, idle persons, and ruffians, who by their deeds and examples corrupt good citifens; and there is no meane to expel this vermine, but by the Censor. There is yet one speciall reason which shewes that the Censors office is now more necessarie than euer: for that in old times the master of euery family had absolute commaund, the father ouer his children, the master ouer his slaues had absolute power of life and death, without any appeale; and the husband had the like authority ouer the wife in foure cases, as wee haue shewed elsewhere: but all this now ceasing, what iustice may we expect of the impiety of children against their fathers and mothers? of the ill gouernment of married couples? of the contempt of masters? How many virgins doe we see sold and dishonoured by the parents themselves, or that rather suffer them to liue loosely than to be married, thinking it better to cast forth their children, or to kill them, than to nourish them? and how can all this be preuented but by a Censor?

The greatest vices
are punished by
the Censors.

A necessarie reason
to confirme
the Censors office.

I dispute not of the conscience to God, the which is the chiefeft and most principal thing that ought to be cared for in euerie family & common weale; the which care although it hath beene alwayes committed vnto Bishops, ministers, and other spirituall officers, yet the magistrat ought to haue a speciall regard that it be aboue all things held in reuerence: for although the law of God commaunds that euerie one appeare before him at the three great feasts of the yeare at the least, yet there are
some

A some which neuer goe, and so by this contempt of religion, hath sprung vp by little and little, the detestable sect of Atheists, which haue nothing but blasphemy in their mouthes, and contempt of diuine and humane lawes; whereby do follow infinite murders, paricides, poysonings, treasons, periuries, adulteries, and incests: neither is it to bee expected, that eyther prince, or magistrat shall reduce those subiects vnder the obedience of the lawes, that haue trodden all religion vnder foot. But this depends of the ouerseers or Censors, who vse diuine lawes when as mans decrees are of no force: for that *Legum metus non scelera, sed licentiam comprimit*, The feare of lawes doth not suppress the crimes, but the libertie. There haue beene and are at this day infinite numbers, who although they offend not the princes lawes, yet liue they most wickedly, and as *Lactantius* said well, *Possunt enim leges delicta punire, conscientiam munire non possunt*. Lawes may well punish offences, but they cannot fortifie and amend the conscience. And as for the bringing vp of youth (the which is one of the chiefeft charges of a commonweale, whereof as of yong plants they should haue the greatest care) wee see it is neglected, and that which should be publike, is left to euery mans discretion, vsing it at his pleasure, some in one sort, some in another, the which I will not touch heere, hauing treated thereof in an other place. And for that *Licurgus* said, That thereon consisted the foundation of a commonweale; he appoynted the great *Pedonome* to be Censor of the youth, and to gouerne them according to the lawes; not at the parents discretion: for as the scope and end of a citie is all one, so the education of all the citisens, according to *Aristotles* opinion, should be all one: and so did the Atheniens decree by a publike edict, made at the request of *Sophocles*, knowing well, that in vaine were lawes made, if youth (as *Aristotle* said) were not instructed in good manners. All this depends on the care and vigilancie of Censors, first to haue a care of the manners and behauiour of schoolemasters.

I will passe ouer with silence the abuses which are committed in suffering of comedies and enterludes, the which is a most pernicious plague to a commonweale: for there is nothing that doth more corrupt the citisens good manners, simplicitie, and naturall bountie; the which hath the more power & effect, for that their words, accents, gesture, motions, and actions, gouerned with all the art that may be, and of a most filthy and dishonest subiect, leaues a liuely impression in their soules which apply thereunto all their senses. To conclude, wee may well say that the Comedians stage is an apprenticeship of all impudencie, looseness, whooredome, coozening, deceit and wickedness. And therefore *Aristotle* did not without cause say, That they must haue a care least the subiects went to comedies: he had said better, That they should pull downe their theaters, and shut the comedians out of the citie gates: *Quia* (said *Seneca*) *nihil tam moribus alienum, quam in spectaculo desiderare*: For there is nothing more contrarie to good manners, than to haunt plaies. And therefore *Philip Augustus* king of Fraunce, did by a publike edict banish all players out of his realme. If any one will say, that both Greeks and Romans did allow of plaies: I answere, that it was for a superstition they had vnto their gods; but the wisest haue alwaies blamed them: for although a Tragedie hath something in it more stately and heroike, and which doth make the hearts of men lesse effeminate, yet *Solon* hauing seene the Tragedie of *Theſpis* plaied, did much mislike it: Whereof *Theſpis* excusing himselfe, said, It was but a play: No (replied *Solon*) but this play turnes to earnest. Much more had he blamed Comedies, that were then vknowne: and now adayes they put at the end of euerie Tragedie (as poyson into meat) a comedie or jigge. And although that comedies were more tollerable among

Comedies and
plays pernicious
to a common-
weale.

mong those that dwell in the Southerne parts, beeing more heauie and melancholy by nature, & for their naturall constancie lesse subiect to change, yet should they be vtterly defended to those that liue towards the North, being of a sanguine complexion, light and inconstant, hauing in a manner all the force of their soule in the imagination of the common and brutall fence. But there is no hope to see playes forbidden by the magistrats, for commonly they are the first at them.

Two meanes to
maintaine a citie.

It is the proper charge of the graue and wise Censors, who will bee carefull to entertaine the honest Gimnasticall exercises, to keepe the bodie in health: and of musike to restrain the appetites vnder the obedience of reason: I meane musike, which doth not onely signifie harmonie, but also all liberall and honest sciences, hauing a speciall care, that this naturall musike be not altered, nor corrupted, as it is at this day, seeing there is nothing that slips more sweetly and insensibly into the interiour affections of the mind. And if we may not preuaile so much as to haue the Ionique and Lidian songs, that is to say, the fift and seuenth tunes banished out of a commonweale, and defended from all youth (as both *Plato* and *Aristotle* said it was necessarie) at the least let not the Diatonie musike (which is more naturall than the Chromatique or Enharmonique) be corrupted by other medlies: and that the Dorien songs, or of the first tune (the which is proper to sweetnesse and seemely grauitie) be not disguised into manie tunes, and so deuided, as most part of musicians become fooles or mad men, for that they cannot tast of a naturall musicke, no more than a weake stomake corrupted with delicates, can digest good and substantiall meat. All this depends of the Censors dutie: for that neither Iudges nor any other officers will euer regard it.

They also complaine of excesse in apparell, and that the sumptuarie lawes are trodden vnder foot. It shall neuer be reformed, if there bee not Censors to see the lawes executed, as in old time the *Nomophylaces*, or Law keepers, did in Athens. And therefore an auntient Oratour said, That the Tribune which first restrained the Censors authoritie, had ruined the commonweale: It was *Clodius*, one of the wickedest men of his time, which law was fixe yeares after disanulled by the law *Cecilia*.

The Censors
ought to haue no
iurisdiction,

Seeing then that to censure is so goodly, profitable, and necessarie a thing, let vs now see, if Censors ought to haue any iurisdiction: for it seemes it should be but a iest without some iurisdiction. Yet I say, that the Censor ought not to haue any iurisdiction at all, to the end that his charge be not intangled with sutes and controuerfies. In like sort, the auntient Roman Censors had no iurisdiction; but a looke, a word, and a dash with a pen, was more bloudie, and touched more to the quick, than all the decrees and iudgements of the magistrat. When as they made their scrutiny or suruey, you should haue seene foure or fife hundred Senators, the order of horsemen, and all the people stand trembling before them: the Senatour fearing lest he should be put from the Senat; the horseman from his horse, & rankt among the baser sort: and the simple citisen to be rased out of his order and from his line, and placed among the tributaries: as *Titus Linius* doth testifie, That 66 Senators were rased at one time out of the register, and excluded the Senat. And yet lest this great honour and authoritie of the Censors should make way to a tyranny, if they were armed with power and iurisdiction, or if any should be condemned without hearing; it was therefore wel aduised they should haue nothing but the censuring and reformation. And therefore *Tully* said, That the iudgement of the Censors did onely make men blush: and for that it did but touch the name, the Censors correction was called *Ignominia*, Ignominie; the which differs from

The Censors haue
no power nor iurisdiction.

infamy,

A infamy, depending vpon the Iudge that hath publike iurisdiction, and in causes that make men infamous. And therefore the Pretor did note them as infamous, that were cassiered with ignominy, the which had beene ridiculous, if they had beene infamous. And yet the doubt which Lawyers haue made, If ignominious men should suffer as the infamous; shewes plainly, that Ignominy and Infamy is not all one, as manie haue supposed.

L. r. de ijs qui notant infam.

By the auntient custome of Greece, it was lawfull to kill any one, or any of his children that was noted infamous, as the Orator *Libanius* saith in his pleading for *Halirhorius*. Now although the Censor had rased any Senator out of the Register booke, yet if he would make petition vnto the people he was admitted, and sometimes absolued and restored: but if there were any accuser that did second the Censor, or if the Censor himselfe would accuse any as a priuate man, if the accused were found guiltie, and condemned by the people, or by Commissioners deputed by the people, then was he not onely ignominious, but also infamous, and declared incapable euer to beare office: and therefore those which were censured, they were not iudged, but yet they were as a man may say, foreiudged: and if the Censor were an eloquent man, he would oppose himselfe as an accuser of those that would seeke to bee restored against his censure: as *Cato* did against *Lucius Flaminius*, making an oration against his filthy and disordred life, hauing rased him out of the register of Senators. But those that were better aduised, and had some hope of restitution, sued for some office, or honorable commission from the people, the which if they obtained, they were freed from all censure of ignominie, or else they were restored by the other Censors siue yeares after: if hee did performe neither the one nor the other, he was not admitted into the Senat: neither could a horseman recouer his horse nor his ranke. And (*Vlpianus* speaking of these men) doubts whether they are to be admitted as witnesses.

A censure is no iudgement.

C And for the better confirmation hereof, *Cicero* brings in an example of *Caius Geta*, who was excluded the Senate by the Censors, and yet afterwards he was chosen Censor: and a little after speaking of censuring, he saith, That the auntients would haue the Censors office to carrie a certaine feare, and not a punishent. The which was partly the cause why the *Claudian* law was disanulled, the which would not haue any Senator excluded the Senat, nor rased out of the registers, if he were not accused before both by the Censors, and condemned by either of them, the which had imbased the office of Censor, being so reuerend, as the Senate of Rome would not permit the Censors (after their charge expired) to bee accused, or called in question for anie thing that they had done during their charge: the which was lawfull against all other magistrats. And it seemes for the same reason the Emperour *Constantine* did teare the libels of accusation propounded against the Surueilans or Ouerseers at the Councell of Nice, saying, That he would not iudge them that were Censors of euerie mans life. And for the

Pro Cluentio.

E same cause *Charlemaine* in his constitutions hath made a Canon, That no prelate should be iudged without 72 witnesses, freeing the Pope from the censure of any man: the which hath bene obserued vntill the councell of Constance, where it was decreed, That the Pope should be iudged by the Councell. I will not heere dispute if the ecclesiasticall iurisdiction be well grounded; but it is to be feared, that hauing presumed so much, they are likely to lose both iurisdiction & all ecclesiasticall censure, the which hath alwaies bene of great consequence: for euen as the auntient Druides (who were auntient Iudges and Prelats in Gaule) did excommunicat kings and princes that would not obey their decrees, euen so the ecclesiasticall censure amongst Christians, hath not onely maintained discipline and good manners for

Cesarin Comment.

many

many ages, but hath also made Tyrants to tremble, and reduced Kings and Emperours vnto reason, pulling oftentimes their crownes from their heads, and their scepters out of their hands, forcing them to make peace or warre, to chaunge their dissolute life, to do justice, and to reforme the lawes. All the histories are full, but there is none so famous, as of Saint *Ambrose*, who did censure *Theodosius* the Great, and *Nicholas* 1 Pope, who censured *Lothaire* King of Italy: and *Innocent*, who did excommunicate *Lewis* 7 King of Fraunce, to whom for three yeres space no priest durst administer the Sacrament. F

True it is, that the abuse of a censure of so great consequence, hath made the ministers, the discipline, and their censure to be contemned, the which consisted in interdiction, suspension, and excommunication: for many vpon light causes, and without cause did excommunicate, yea they haue set downe 39 causes wherein a man did incurre excommunication *ipso facto*, without iudgement or sentence; and which is more, they did excommunicate Corporations, Colleges, Vniuersities, Emperours, Kings, and Kingdomes, without distinction of age, sexe, innocents, or mad men, although since (but too late) they haue somewhat corrected this abuse: but in this kingdome it was decreed by the statutes of Orleance, that they should not vse any excommunication, but in crimes and publike scandall. G
The Prelats, Bishops, and Popes, haue alwayes pretended the censure of manners and religion to belong vnto them, as a thing whereof judges and magistrats take no knowledge, but in case of execution. And since the auntients and ouer-seers haue vsed the like prerogatiue in many places, a thing which is verie necessary, if there be no Censors, as well to reforme the peoples manners, and to watch ouer them, as to countenance the dignity of Pastors Bishops and Ministers, whom we cannot esteeme and honour too much, for the charge and dignitie which they beare; God did wisely prouide, making choice of his ministers, and giuing the prerogatiue of honour vnto the tribe of *Leui*, aboue all the tribes, and to the family of *Aaron*, of the which the Priests only were, aboue all the Leuits, giuing them the tenths of castell, fruits, and of all heritages, with great honours and priuiledges: and by an article of the law of God it is said, That he that shall disobey the sentence of the high Priest, shall be put to death. And they that shall abase the estate of the Ministers, Bishops, and Auncients, and seek to take from them, all ecclesiasticall censure, with their goods and honours, to see them poore and scorned, they contemne God, and regard not religion, the which is a matter verie considerable: and it was partly the chiefe cause, why the chiefe Minister of Iosanna forsooke the towne, for that the heads of the Cantons could not indure that the Auntients should haue the censuring of manners: yet the one is most necessarie in euerie well gouerned commonweale, either to create Censors, or to submit themselues to the censure of the Bishops. H

Deut. 17.

The pouertie and contempt of the ministers makes religion to bee contemned.

The Seigneurie of Geneue referues this prerogatiue to their Bishops, Ministers, and Auntients, to haue the priuiledge of a Corporation, and to censure the liues, and manners of men in their consistorie, and yet without any iurisdiction to commaund, or to execute their sentences, either by themselues, or by the officers of the Seigneurie; but for disobedience they excommunicate him, a matter of greater consequence: for the person excommunicated, after a certayne time is pursued criminally before the magistrate, by the Inquisitour of the faith, as in the catholike church, but not so soone: for there hath beene some one excommunicate fiftene yeeres, and afterwards conuented before the Inquisitor of the faith, who meant to proceed against him, hee hath appealed to the Parliament, where his appellation was K

A was reiecte, & he condemned in a fine, decreeing, that he should be seized on, and carried to the Bishops prison, commaunding the Inquisitor to proceed in his triall, euen vnto a definitiue sentence, and to certifie the Court. It was in those daies, when as it was lawfull to excommunicate any man euen for pettie debts, although the debtors had made it knowne that they had not any thing. But after the edict made at Orleance, and confirmed by the Parliament, the Bishops and Auntients could not vse such censures within this realme. At Lions *M^r de Moulin* was much discontented against the consistorie, saying, That vnder colour of their censure they attempted vppon the temporall iurisdiction, and yet hee blamed it in the catholike church. But taking away iuspension, interdiction, and excommunication, the ecclesiasticall censure is of no force, and by the same inconuenience, good manners and discipline is abolished: but there is no reason, that for disobedience in slight matters, they should vse such censures.

The auntient Censors did set notes and marks vppon the registers against those that deserued it, to aduertise their successors in their charge of those that were so noted, if they did not amend. In my opinion that should suffice, and not to proceed against them by any amercements, or to excommunicate them for want of payment. I leaue it to the wise to decide, whether it bee better, to diuide the temporall censure (touching maners & other things aboue specified) from the ecclesiasticall censure, or to ioyne them together. But yet it were better to allow both to the Bishops & Auntients, than to take all from them, and thereby to depriue the commonweale of that which is most necessarie: for wee see those estates which doe vse it, to flourish in lawes and good manners: we see whooredome, vsurie, mummeries, and excesse in all things rooted out, the blasphemers, ruffians, and idle vagabound banished; and without doubt, those commonweales which shall vse such censure, shall continue and flourish in all vertues: they which neglect lawes, vertue, and religion, will bee contemned, as it happened in Rome not long before the ruine of the empire; when as instead of Censors, they created an office which they called The Tribune of Plaisirs, as we may note in *Cassiodorus*. But for that the Censors office was first instituted in regard of taxes, subsidies, and imposts, and to make a stocke for publike necessities, let vs also speake of treasure.

CHAP. II.

Of Treasure.



E F Treasure be the sinewes of a commonweale, as an auntient Orator said, it is verie necessary to haue the true knowledge thereof, first to see by what honest meanes to gather money together; secondly, to imploy it to the profit and honour of the commonweale; and lastly, to spare and to reserue some part for all needfull euent, least the publike treasure being exhaust, the commonweale might bee oppressed with sudden calamitie. We will therefore handle these three poynts euerie one in order.

Money the sinewes
of a Common-
weale.

Touching the first poynt. There are many craftsmasters in matters of imposts, which know many meanes to raise vp great summes of money, but they neuer had the true knowledge of honour and honestie. But leauing these cunning politicians I will follow those, who as they haue had a great care of the treasure, so haue they fought by honest meanes to increase the reuenues of the commonweale, lest the citie by want should be drawne into danger, and the prince forced by vnlawfull meanes

A seuen journies or acres of land. If it be true which wee read in *Pliny*, or *Collumella*: *Post exactos Reges Liciniana illa septem iugera, quæ plebis Tribunus viritim diuiserat, maiores questus antiquis retulere, quam nunc nobis præbent amplissima veruacta*, After the expulsion of the kings, those seuen acres which the Tribune deuided to euerie one by the law *Licina*, did yeeld our auncestours more profit, than now our large fields. And the oration of *Marcus Curtius* is well knowne, noting him as a pernicious citisen that could not be contented with seuen acres. In this diuision *Romulus* did imitate the Egyptians, who in old time diuided all the reuenues of Egypt into three parts: The first was for the sacrifices and sacrificers; The second, to entertaine the kings house, and to defray the publike charges; And the third for the Calasiris, the

B which were the men of warre, alwaies entertained to serue at need: all the other citisens were either husbandmen, or slaues. Wee read also, that *Ezechiel*, in reforming the abuses of the princes of the Hebrewes, appoynted certaine lands for the sacrifices, some common for the people, besides the reuenues for the entertainment of the kings house, and to serue for publike expences. To the end (saith hee) that the princes shall no more grieue my people with exactions and imposts. Although from the beginning of the Israelits kingdome, the kings had some reuenues; for the towne of Ziceleg, with some land being giuen to *Dauid* by king *Achis*, continued for euer as part of the kings reuenues, and was neuer alienated. Of the regall reuenues some are publike, some are priuate, the last may bee sould and made away, the first

C neuer. And to the end that princes should not bee forced to ouercharge their subiects with imposts, or to seeke any vnlawfull meanes to forfeit their goods, all Monarchs and States haue held it for a generall and vndoubted law, That the publike reuenues should be holy, sacred, and inalienable, either by contract or prescription. In like sort, kings (especially in this realme) graunting their Letters pattents for the reunion of crowne lands, declare, that they haue taken an oath comning to the crowne, in no sort to sell or make away the reuenues: and although it were duely and directly made away, were it for euer, yet is it alwayes subiect to bee redeemed, and in such sort as the prescription of a hundred yeares, which giues a iust title to the possessor, doth not touch the reuenues of the crowne. The edicts, decrees, and

D ordinances of this realme are notorious, not onely against priuate men, but euen against princes of the bloud, who haue beene put from the deuision of the reuenues, & the prescription of a hundred yerres. And this is not peculiar to this realme alone, but common to the kings of England, Spayne, Poland, and Hungarie, who are accustomed to sweare not to alienate the reuenues of the crowne. The which is also obserued in popular & Aristocritall states: and euen at Venice the law allowes no prescription (the which many would limit to fix score yeares:) nor yet the Cantons of the Swissers: for king *Henry 2* hauing requested the Siegnorie of Lucerne to ingage themselues for a certaine summe of money, *Hugo* the chiefe magistrat made answere vnto the Ambassador, That both the Senat and Commons of Lucerne had sworne, neuer to pawne nor ingage their lands. Wee read also, that the same ordinances were religiously obserued in two the most goodly commonweales that euer were, Athens and Rome, whereas two great personages, *Themistocles* and *Cato* the Censor, caused all the publike reuenues to bee seized on, the which had through tract of time, and sufferance of magistrats beene vsurped by priuate men, saying in their orations, *Nec mortales contra deum immortalem, nec priuatos contra Rempub. præscribere posse*, That mortall men could neuer prescribe against the immortall God, nor priuate men against the commonweale. And therefore the court of Parliament vppon a ciuill request obtained by the kings Proctor generall, against

E

The publike reuenues by nature are inalienable.

Nulla prescriptio occurrit Regis.

Plut. in Catone Censorio, & Themist.

a decree made in fauour of the successors of *Felix* of Nogaret, to whom king *Philip* the faire 260 yeares before had giuen the lands and Seigniorie of Caluiffon, for his vertues and well deseruing of the commonweale, whereby it was reuoked vnto the Councell: shewing therby that prescription hath no place, when there is any question of the reuenues of the crowne. And the court of Parliament at Rouan, by a sentence giuen the 14 of Februarie, 1511, betwixt the kings proctor and the religious of *S. Omer*, adiudging the possession of certaine goods vnto the king, allowing the religious to releue themselves by some other meanes, and to proue it duely, by way of inquest, *and for cause*, which words (and for cause) are not to bee vnderstood for the poore subiects of the countrie onely, but generally for all. And oftentimes the treaties made betwixt princes haue no other difficulties, but for the preferuation of the reuenues, the which princes cannot alienate to the preiudice of the publike. *Henry 8* king of England in a treatie made with the Pope and potentates of Italy, in the yeare 1527, caused this clause to be added, That they might not giue away any thing of the crowne of Fraunce, for the redeeming of king *Frauncis*: and vpon this poynt the breach of the treatie of Madrid was grounded, for that the auncient custome of this realme, conformable to the edicts or ordinances of other nations, requires the consent of the three estates: the which is obserued in Poland, by a law made by *Alexander* king of Poland, according to the disposition the common law, vnlesse the sale were made at such time as the enemy had inuaded the countrie: and that the forme be obserued from poynt to poynt, as in the alienation of pupils goods (the commonweale being alwayes regarded as a pupill) and if there be any thing omitted, it is all of no force, or at the least it is subiect to rescission, without restitution vnto the purchaser of the thing purchased. Neyther can the prince challenge that vnto himselfe which belongs vnto the publike, no more than a husband can his wiues dowrie, wherein the prince hath lesse right; for the husband may abuse the fruits of his wiues dowrie at his pleasure, but a prince may well vse, but not abuse the fruits of a publike dowrie: as the citisens that were in societie with the Athenians complained, that the publike money was to be put in *Apolloes* treasury, and not to be wasted by the Athenians.

Our kings haue and doe acknowledge, that the proprietie of the crowne lands is not the princes: for king *Charles* the 5 and 7, would not haue the crowne lands pawned, vnlesse the Parliament at the instance of the kings Proctor had so decreed, as we may see in the auntient registers of the court of Parliament, and chamber of accounts; and the reason is, for that the reuenues belong vnto the commonweale, as wise princes haue alwaies acknowledged: & when as king *Lewis* the 8 died (hauing giuen much by his testament to poore widdowes and orphans) hee commaunded all his jewels and moueables to be sold to performe his legacies, least that any thing belonging to the crowne should be sold, as hauing no interest in it. And for this cause *Pertinax* the Roman Emperour caused his name being written vpon the publike lands, to be rased out, saying, That it was the very inheritance of the commonweale, and not the Emperours, although they enioy the rents for the maintenance of their houses and the commonweale. And we doe also read, that *Antonius Pius* liued of his owne inheritance, applying nothing that belonged to the publike, to his priuat vse: whom king *Lewis* 12 (called the father of his countrie) doth seeme to imitate, who would not mingle his patrimony & reuenues, with that of the publike; erecting the chamber of Blois for his lands at Blois, Couffy, and Montfort: and yet many haue erroneously confounded the publike with the princes private lands. Neyther is it lawfull for soueraigne princes to abuse the fruits and reuenues

*L. si secundum C.
de sine Reip.*

The publike reuenues and the princes patrimony differ.

- A** of the crowne lands, although the commonweale be in quiet and free from all trouble; for that they haue the vse onely, and ought (the commonweale and their house being maintained) to keepe the surplusage for publike necessitie: although that *Petrucles* said to the Ambassadors of the confederats, That they had no interest in the imployment of the treasure, so as they were maintayned in peace: for it was contained in the treatie of aliance, that the money which should be raised in the time of peace, should be gared in *Apolloes* temple, and that it should not bee imployed but by a common consent. But there is great difference betwixt the *Treasurie* or *Exchequer* in a monarchy, and in popular states: for a prince may haue a *treasurie* of his priuate patrimony, the which was called *Fiscus* by the Auntients, and that of the publike reuenues *Aerarium*: the one being diuided from the other by the auntient lawes, the which can haue no place in a popular or Aristocraticall estate. Yet there neuer wanted flatterers to persuaide princes to sell the reuenues of the crowne to make a greater benefit; the which is a tyrannical opinion, and the ruine of a commonweale: for it is well knowne, that the publike reuenues consist chiefly in that which Dukes, Marqueses, Earles, and Barons did sometimes possesse, the which, either by succession, dowrie, or by confiscation, haue come vnto the state in Lordships, coppiholds, in fees, alienations, sales, seazures, rents, amercements, rights, confiscations, and other regalities, the which are not subiect to imposts and ordinarie charges, and oftentimes are gotten by them which are free from all charges.
- C** Moreouer, commissions graunted to sell the publike reuenues, for the making of money speedily, allow it to be sould for ten yeares purchase, when as priuate lands in fee with iustice are sould for thirtie yeares purchase, and those that haue dignities at fiftie yeres and more: so as some with purchase of the publike lands, reape in one yeare more profit by the iurisdiction, than they paid for the land. Others haue paid nothing at all, taking the valuation of the reuenue by extracts from the Chamber of accounts, giuen in by the receiuers in ten yeares, who oftentimes haue not receiued any thing, for that the profit of inferiour iustice is made in the chiefe and regall court. As for sales, the purchaser hath more profit, than the interest of the money which they haue payed can amount vnto: as also the receiuers of the reuenues are not accustomed to giue any account of casualties, but for a small part. But in farming out the crowne lands, the farmours are lyable to subsidies, and are charged according to their abilities.
- D**

A. Conius et vlp. in l. 2. §. hoc interdictum. Ne quid in loco pub.

By the edict of Francis 1, in the yeare 1544.

The great prejudice that comes by publike sales.

- There are infinite more abuses which the commonweale sustaines by the sale of their reuenues, but the greatest is, that the money which is made is not put out to rent (like vnto those that thinke to be good husbands) but is most commonly wasted and giuen vnto them that haue least deserued, and so for want of money to redeeme this land, the commonweale falles to decay: then doe they also sell the commons wherby the poore are releued. It were more fit to sell the waste lands of the commonweale, the which no man will hire, and brings no benefit to the commonweale, to the end the Treasury may bee enriched, and that the citisens may profit by the tilling thereof: but if they may haue a farmour, it is not lawfull to sell it, although that *Aristotle* commends them of Constantinople, who sould their lands for a continuall rent, the which is a meere alienation, and money taken before, diminisheth the rent: the which was expressely defended by an edict made by *Charles* the ninth. And although that afterwards he made an other edict for the renting out of waste lands, and paying of fines, by the persuation of such as sought to make money: yet the Parliament of Paris vpon the verification of the said edict, decreed, That the rents should not be redeemed, and that there should bee no fine payed at
- E**

The waste lands may be sold.

the beginning; and for that the Commissioners for this sale did sue vnto the King that it might bee lawfull to giue money at the entry, the Court (all the Chambers being assembled) decreed, That the purchasers might not giue aboue a third of the summe at the entry, in regard of the value of the lands: the which third part should be receyued by the Receyuers of the reuenues apart, to bee imployed to redeeme the reuenues that were sould, imposing a quadruple penaltie to bee leuied, as well vpon the receyuers, as of those that had gotten any assignation of the said money. And it is not heere needfull to relate what losses the king and commonweale haue sustayned by such alienations of waste lands. King *Frauncis* the second comming to the crowne, commaunded his Proctors and magistrats to redeeme the publike reuenues from priuate occupiers: wherein he complayned, that the crowne lands and reuenues were so dismembred and wasted, as that which remayned did not suffice for the charges that were laid vpon them. But our king hath farre greater cause to complayne now, when as there scarce remaynes any thing that is to bee sould. In the generall accounts of the treasure made in Ianuary, in the year 1572, there was no receit made of any reuenues, although there were six & thirtie thousand crownes a yeare in the receit, when as king *Frauncis* died, as it appeareth by an account of the treasure made in the year 1569: and by the same estate the alienation of the reuenues, impositions, and subsidies amounted to fourteene millions nine hundred sixtie and one thousand foure hundred and seuentie liures, fifteene soulz, and eight deniers; not comprehending twelue hundred thousand liures for the fourth and halfe fourth, and foure hundred and fiftie thousand liures, in regard of fifteene liures vpon the strike of salt, the which the country of Guienne redeemed in the yeares 1549, and 1553. whereby is plainly appeares, that the kings reuenues are almost all ingaged and made away, for fifteene or sixteene millions at the most, the which is worth aboue fiftie millions: for that Earledomes, Baronies, and other Seigniories haue not beene sould for aboue nine yeares purchase: and if it were redeemed and let to farme, it would amount yearely to almost three millions, the which would suffice to entertaine the kings house in state, and to pay most of the officers their wages, not meddling with any of the other ordinarie or extraordinarie charges. And if wee may compare a small kingdome with a greater, the reuenues of the crowne of England, comprehending the land subsidies, taxes, customes, imposts, and all other charges, amount to little more than sixscore and ten thousand pounds sterling a yeare, hauing a good part of the temporall lands of the church annexed vnto it, and yet the Queene doth maintayne her Court and the estate of her realme verie royally, and redeemed the reuenues.

True it is, that a settled peace for these fifteene yeres hath much preuailed for the maintenance of the state of England; and warre for the ruine of Fraunce, if God had not sent our King *Henrie* 3 from heauen to restore it to his first beautie. But we must obserue that for the preseruacion of the reuenues of a commonweale, most commonly that of a monarchy is better husbanded than in a popular state, or in that which is gouerned by few of the better sort; whereas the magistrats and ouerseers of the treasure conuert the publike to their owne priuate profit: and euery one striues to gratify his friends, or to purchase the peoples fauour with the preiudise of the commonweale: as *Cesar* did in his first Consulship, who deuided the territory of Capua among the people, and abated the rents of the farmes a third part, after that hee had beene well bribed. And ten yeares after *Quintus Metellus* Tribune of the people, to winne their fauour, published a law to take away the toles in all the ports of Italy. In like sort, *Pericles* to haue credit with the people of Athens, made distribu-

7. May 1566.

In the year 1559

What the alienation of the reuenues of Fraunce amount vnto. A liure is two shillings.

The reuenues of the realme of England. Herein the Author is deceiued.

In a popular state the reuenues are ill husbanded.

A distribution of great summes of money, the which had come into the treasure. This happens not in a monarchie, for Monarchs which haue no more certaine reuenues than their lands, and that haue no power to impose subsidies or other charges vpon their subiects but with their owne consents, or vpon vrgent necessitie, are not so prodigall of their crowne lands. It is not needfull to discourse any further of reuenues, being impossible to order it better than was by the edict of king *Charles* 9 if it were duely executed.

The second meanes to gather treasure together, is by conquest vpon the enemy to recouer the treasure waisted in warre: So did the antient Romans; for although the sacke and spoyle of townes forced, belonged to the Captaines and souldiers, yet the treasure was carried into the treasure of Rome. And as for the townes yeilded or taken by capitulation, the armie had but their pay, and sometimes a double pay, (before that the discipline of war was corrupted) & the treasure of the vanquished was carried to Rome, if they had not otherwise capitulated. All the gold and siluer (saith *Titus Linius*) and all the brasse that was taken from the Samnites, was carried to the treasure. And speaking of the Gaules beyond the Alpes, he saith, That *Furius Camillus* carried into the Capitoll 170000 pounds of siluer which hee had taken from them: and that *Flaminius* caused to bee brought out of Spaine of the spoyles of Greece, the value of three millions & eight hundred thousand crownes, besides siluer, rich moueables, armes and ships. *Paulus Aemilius* brought thrice as much out of Macedony. *Cesar* caused aboue fourtie millions to be deliuered into the publike treasure, by the report of *Appian*. Wee may see from the 33 booke of *Titus Linius* to the 34, infinite treasures brought to the Treasure of Rome of the spoyles of conquered nations. And although all were not brought in by the Generals, yet fearing to bee charged with corruption, or to bee frustrate of their triumphs, they alwayes deliuered in great summes: for *Scipio Asiaticus* was accused and condemned of corruption, in a great fine, and yet he brought into the treasure aboue two millions of gold: and *Scipio* the Affrican his brother, was also included in the accusation, although he had brought aboue fise millions of gold of his conquests into the treasure, besides the value of ten millions and fise hundred thousand crownes: wherein king *Antiochus* was condemned: ^{It} meanes of the victorie they had obtayned, and yet both of them were exiled and died poore. And although that *Lucullus* was the first (as *Plutarch* saith) that enriched himselfe with the spoyle of his enemies, yet did he bring more into the Treasure than any of the rest, except *Cesar*: the which I thought fit to obserue, for that commonly wee imploy the treasure for the charge of the warres, and yet in all victories and conquests there neuer comes a crowne into the Exchequer, and oftentimes the sacke & spoile is giuen before the townes be taken or yeilded.

The second meanes
to gather treasure.

The Romans were not contented with their treasures and spoyles, but they condemned the vanquished to loose a part of their territories, the which commonly was the seuenth part. Since, some haue bene condemned to loose a fourth or a third part of their lands, as in Italy, beeing subdued by *Odores* king of the Herules. And soone after *Hortarius* king of the Lumbards condemned the vanquished to pay him yerely the moytie of their reuenues: as also the Romans had done vnto the Dorians long before. But *William* the Conqueror, after he had conquered the realme of England, declared all the countrey in generall, & euery mans inheritance in particular forfeited vnto him by the law of armes, intreating the Englishmen as his farmours. Yet the Romans haue alwayes shewed themselves courteous and affable in that poynt, sending Colonies from their citie to inhabit the conquered countryes, distributing

The punishment
of the vanquished.

The great benefit
which growes by
Colonies.

to euery one a certayne quantitie : and by this meanes they freed their Citie from F
beggars, mutinies, and idle persons, and did fortifie themselues with their owne men
against the vanquished, the which by little and little did linke themselues in marria-
ges, and did willingly obey the Romans, who by this meanes also haue filled the
world with their Colonies, with an immortall glory of their iustice, wisdom, and
power : whereas most part of conquering princes plant Garrisons, which serue onely
to spoyle and oppresse the subiects. If our kings after the taking of Naples and Mi-
lan had practised this course, they had yet continued in obedience to our kings.
And it is no maruell if they reuolt against the Spanyard vppon the first occasion, as
well as the countrey of Flaunders hath done, hauing nothing but Garrisons there G
without Colonies. Yet wee find, that *Sultran Mahumer* king of the Turkes, found
meanes to enrich his treasure by meanes of Christian slaues, which hee sent in Co-
lonies into conquered countreies, giuing to euery one fiftene acres of land and two
oxen, and seed for one yeare : and at the end of twelue yeares he tooke the moytie of
their fruits, the which hee continued for euer. *Amurath* the first dealt more mildly
with the Timariots, giuing them certayne lands and rents, to some more, and to
others lesse, vpon condition they should attend him in the wars when they were cal-
led, with a certayne number of horse : and if the Timariot chanced to die, the fruits
should acruer vnto the Prince, vntill that hee had aduanced some other, by way of
gift. And generally the tenth of all successions belonged to the prince (the which
grew by the law of armes, and by the princes conquering another mans countrey) H
and not by way of imposition vppon the auntient subiects. Whereby it appeareth,
that the greatest and clearest reuenues which the Turke hath, are in manner casuall,
and the warre is defrayed without any new charge.

The Turks order
to make mony, &
for the warre.

The kings of Castile haue done in manner the like at the West Indies, and name-
ly the Emperour *Charles 5*, hauing conquered Peru, gaue the lands to the Captaines
and Spanish souldiers by way of gift onely ; and beeing dead, they returned to the
Emperour, vntill that another were aduanced in his place : taking moreouer the fift
of all the pearle and mynes ; so as euerie two yeares there comes clearly into the
kings treasure in ~~Spain~~ ^{Peru} neere foure millions of gold, the which is called, The port
of Ciuill. But it is a reason, that the conquests which are made vpon the enemy, and
which augment the treasure, should also ease their subiects : as they did in Rome
after the conquest of the realme of Macedon, the Romans were freed from taxes,
imposts, and subsidies.

The Emperours or-
der at Peru.

The third meanes to augment the treasure, is by liberalitie of friends or subiects,
be it by legacie, or by donation during life : the which wee will speake briefly of, for
that it is vncertaine, besides there are few princes that giue, and fewer that receiue
without requittall : for if a prince giues to one that is more rich and mightie, it
seemes it is for feare, or vpon some bond, & somtimes he that receiues it, accounts
it as a tribute. The Emperour of the Turkes sets to the view of all the world, as K
well those presents which are sent him from his friends, as those that come from
tributaries, to shew how much hee is feared of strangers ; defraying the Ambassa-
dors charges with great bountie, the which neuer prince nor people did. But
we find that the Auntients vsed an other kind of bountie and liberalitie than they
doe at this day : for at this day they giue not often but to such as are in greatnesse
and prosperitie, and the Auntients gaue in aduersitie. When as *Hannibal* had in a
manner quite vanquished the Romans, and taken from them almost all Italy, the
king of Egypt sent the value of 400 thousand crownes to Rome in pure gift ;
the which the Romans refused, giuing great thanks to the king. They did the like

The third meanes
to gather treasure.

The magnificence
of the Emperours
of Turky.

A to *Hierom* king of Sicile, who gaue them a crowne of gold waying 320 pound, and a Victorie of gold, with fūe thousand bushels of wheat : but they accepted nothing but the image of Victory as a happy presage . They shewed the same resolutions to the Ambraciotes, and to many other Princes and Seignories, who at that time offered them great presents, although they were in extreme necessitie : so as there was a combate of honour, in the one to giue, and in the other to refuse . But the Romans haue surmounted all other nations in courage and resolution in their aduersities : as for other princes and people they were not so nice to take, yea oftentimes they demaunded ; as the Seignorie of the Rhodes, when their Colossus fell downe & brake some of their ships, they sent Ambassadors to kings and princes to beg, hauing small meanes, and it succeeded well : for king *Hierom* sent them threescore thousand crownes in giift, and many others imitated him : yea the king of Egypt gaue them in gold the value of eighteen hundred thousand crowns, and in siluer much more, with twentic thousand bushels of wheat, and three thousand beasts for sacrifices, besides great store of stufte, and an infinite number of Architects and workemen the which hee entertayned at his owne charge for the building of a Colledge: so as the Seignorie of Rhodes for an old broken image, and some crased ships, were greatly enriched by the bountie of other princes .

A good policie of
the Rhodiots.

C It was common to the kings of Egypt to glorie in their bountie to others : for wee read in a manner the like of *Ptolomie* the first, toward the citie and inhabitants of Ierusalem, to whom he sent the value of two hundred threescore and sixtene thousand crownes, to redeeme a hundred thousand slaues of their nation ; and ninetie thousand crownes for the sacrifices, besides a table of massy gold to set in Gods Temple: and the great presents he gaue to the 72 Interpreters, which translated the Bible out of Hebrew into Greeke. And as it was and will be alwayes tolerable for pettie princes and small Siegnories to accept the honorable gifts of great princes and monarchs : so was it conuenient for the Romans to refuse such liberties (and to beg it had beene infamous) and to accept, by giift or legacie, great realmes and royall successions, which they gaue them which had raigned peacefully vnder their protections, for an honest recompence of their iustice, when as they died without heires males lawfully begotten. By this meanes *Ptolomie* king of Cyrene, *Attalus* king of Asia, *Eumenes* king of Pergame, *Nicomedes* king of Bithinia, *Coctius* king of the Alpes, and *Polemon* king of Pontus, left the people of Rome heires of their goods & kingdoms. As for giifts from the subiect, the which the antients called oblations, there were few or none at all : for charitable gifts which be voluntarie, are now demaunded : and although the kings of Spaine, England and others vse intreaties to obtaine them, yet most commonly there is more force in these requests, than in commissions and letters of commaundement. I vnderstand by the word Gift, that which is liberally offered by the subiect vnto his prince ; as the gold which they called *Coronarium*, the which the Iewes gaue vnto the Emperours, to be maintayned in the priuileges of their religion ; and the magistrats of the townes and communalities of the empire : the which in time proued a forced subsidy, vntill that this force was taken away, the giifts remaining voluntary to gratifie the Emperour, when as hee had obtayned any victorie against his enemies .

Ioseph in antiqs

Six kingdomes gi-
uen to the Ro-
mans by legacie.

Voluntary gifts of
the subiects.

The like may bee sayed of the imposts which in Spayne they call *Seruiçe*, the which was freely graunted to the kings of Spayne to entertayne their estate more honorably ; and since it was almost conuerted into an ordinary charge. Wee find likewise

Seruiçe of Spaine

The revenues of
the realme of Per-
sia vnder the first
Darius.

The custome of
Aethiopia.

likewise that the kings of Persia contented themselves with the voluntary gifts and presents of diuers kinds that came from their subiects : but *Darius Hystaspes* (he that got the kingdome by the neying of his horse) chaunged those kinds into coynes of gold and siluer, and the gifts into tributes and necessary charges, appoynting Treasurers and Receyuers in euerie gouernment (which were 127 in number) to make a diuision of the taxes and subsidies, which amounted then to foureteene thousand five hundred and threescore Euboique talents, the which is valued at ten millions one hundred fourescore and twelue thousand crownes. But this antient custome of Persia is maintayned at this present in Aethiopia, whereas the gouernours of fiftie gouernments bring vnto the *Negus*, king of Aethiopia, the gifts and oblations of his subiects in graine, wine, cattell, handy works, gold and siluer, without any other commission, or letters patents : so as for the greatnes of his maiesty, it is more besitting to haue them obedient vnto him, than to send forth his commissions to exact and beg of his subiects. As for successions and testamentary legacies giuen to princes, by their subiects, it is at this day very rare, and yet in old time it was one of the greatest meanes whereby princes did augment their treasures : for wee read that the Emperour *Augustus* hauing giuen by will the value of eleuen millions and two hundred thousand crownes to be distributed among the people of Rome, and the legions; he withall protested, that he left not to his heyres but three millions and seven hundred thousand crownes, although he shewed, that he had receyued from his friends not many yeares before his death, the summe of thirtie and five millions of crownes. True it is, that hee was accustomed to leaue vnto the children of the Testators, the legacies and successions that were giuen him, neuer taking any thing of their testaments whom he had not knowne : wherewith *Cicero* reproched *Marc Antonie* in open Senat, That hee had enriched himselfe by their testaments whom hee had neuer knowne; and yet *Cicero* confesseth that hee himselfe had gotten by testaments a million of crownes. But tyrants tooké all without any distinction: for there was no better meanes for any one to assure his testament, than to giue somewhat vnto the tyrant : but if the testament were imperfect, the tyrant seized vpon the whole succession, the which is reprobued by the law, for which cause the custom to make Emperours and Princes their heyres, ceased.

The fourth means
to gather treasure.

Who bee tribu-
taries.

The difference of
a pension and
tribute.

The fourth meanes to augment and intertaine the treasure, is by pensions from their alies, which are payed in time of peace, as well as in warre, for protection and defence against their enemies ; or else to haue counsell, ayd, and comfort at need, according to the tenor of the treatie . I say, that a pension is payed by friends and alies ; for a foueraigne prince which hath capitulated with another to pay him some thing yearely to haue peace without any treatie of amitie or aliance, is a tributary : as *Antiochus* king of Asia, the Seigniory of Carthage, the kings of Sclauonia, and many other princes and states were tributaries to the Romans; the kings of Arabia and Idumea to *Dauid*, and the princes of Asia to the kings of Persia. And for this reason the treaties of aliance betwixt the house of Fraunce, and the Cantons of the Swissers, specify, That the king shall giue an ordinary pension of a hundred pounds to euery Canton for a peace, and two thousand for an aliance, besides all extraordinary pensions, and their pay in time of warre, & they to do him seruice in his court for the guard of his person : which doeth shew, that the Swissers and Grisons are pensioners to the king, considering the mutuall aliance, and the seruice they owe for this pension . In like sort he is no tributary that corrupteth his enemies Captaynes, as *Pericles* did to the Lacedemonian Captaynes, not (as *Theophrastus* sayd) to purchase a peace, but to deferre the warre . But wee may say, that the Cantons neuer

made

A made a more profitable league for their estate, both to enrich themselves, & to traine their subiects vp in armes at another mans cost, and also to send swaggerers and idle persons out of their countrie. By the account of him that payed the Cantons, the ordinary and extraordinarie pensions came yearely at the least to six score or seuen score thousand liures: and in the yere 1573 they came to two hundred eighteene thousand liures. The pensions that were payd to the Germaine Commanders the same yeare, amounted to six score and twelue thousand liures, besides their entertainment in warre.

The Swissers pensions came to 14000. pound sterling a yeare.

21800 pound.

12300 pound.

It is necessarie for great princes to giue pensions to the Secretaries, spies, Captaines, Orators, and household seruants of their enemies, to discouer their counsels and enterprises: and experience hath often taught, That there is no greater meanes to maintayne his estate, and to ruine his enemies: for the strongest place is easily taken, so that an asse laden with gold may enter it; as *Philip* the first king of Macedon said, who by his gifts & liberalitie subiected almost all Greece vnto him. And the kings of Persia had no better means to keepe the forces of Grece out of Asia, than by goodly pensions: for it is hard that he which receiueth should not doe some seruice in requitall of his money; for he is tyed by bond, or forced through shame, or moued with hope of a greater benefit, or with feare least hee that had corrupted him should accuse him: for princes do seldome giue any great pensions vnto strangers, vnlesse they first sweare against their natie countrie: as a Germane prince sayd at a dyet at Wormes in the yere 1552. There was the same yeare a prince, who since is dead, the which offered to an Ambassador in his masters name, that for two thousand crownes a yeare pension, he would discouer vnto him all the secrets, practises, and negotiations of his countrie, and to imploy all his meanes to preuent any thing that might be done in prejudice of him that should pay the pension. These men are much to be feared, especially in a popular estate, in the which it is more easie for a few priuat men that gouerne the commonweale to betray it, than in a monarchy, wherein the prince accounts all that is publike his owne, and therefore hath care of it as of his owne. But such rewards and corruptions can neuer bee profitable to them that giue it, if it bee not kept secret, the which is impossible, if there be many.

Plus in Lisand. & Agésilao.

Whereunto pensions are bound.

D The kings of Persia and Macedone gaue none pensions but a small number of Orators and Captaynes of the Grecians: and the king of Egypt for seuen thousand crownes pension, which he gaue to *Aratus*, had the whole estate of the Atheians at his deuotion. And therefore it seemes strange to me, why our kings (besides the ordinary pension of the Swissers) haue giuen extraordinarily to about two thousand of them which exceeded the rest in credit and dignitie; as king *Henrie* the second did, the which were knowne by their names and surnames, and gaue their acquittances; beside the priuate pensions, the which were payed by roll, and came yerely to 49299 liures: happely it had bene better to haue giuen the moiety of these pensions to few men of authoritie, and secretly without any acquittance: for sometimes a pensionar had rather lose the greatest reward of any prince, than to giue a note of his hand for the receit of the money: as that English lord *Hastings*, to whom king *Lewis* 11 gaue 2000 crownes pension, the bringer demaunded an acquittance for his discharge onely vnto the king, as he said; whereunto the lord *Hastings* answered, That he would receiue his pension, but he would giue him no acquittance: the which the king demaunded earnestly, to make vse of it in time, and to bring him in suspicion of a traitor to his countrie. There are also some things not only secret, but also dishonest, for the which pensions are giuen, although some hold nothing foule nor vnlawfull that is done for the benefit of his country; for my part I hold this fact

4929 pound 4 shillings.

no lesse odious, that shall suborne the houshold seruants of princes to murder their masters, or if they cannot kill them by force, to poyson them, than hee that shall take a reward for so towle a fact. Wherein *Pericles* was commended, who giuing vp his accounts, set downe an article of ten thousand crownes disbursed without warrant, shewing neither acquittance nor cause of it: the which the people allowed without any further inquiry, knowing well the wildome and loyaltie of the man in the gouernment of the commonweale. It is most certaine, that a secret pensionar giuing an acquittance, is alwayes in feare to be discovered, whereby hee shall neither dare, nor be able to doe any thing in fauour of him that giues him a pension. Besides, it is dangerous when pensions are giuen publikely, the iealousie of such as haue none will be a cause of quarrels and partialities, as hath oftentimes happened in Switserland, in such sort, as those which had lesse than others, or none at all, were very vehement to haue the priuat pensions put into the receiuers hands with the generall pensions: the which the king denied, saying, That he would rather restraine his liberalitie.

Plut. in Pericl.

The fift meanes
to gather treasure.

The fift meanes to gather together treasure, is by trafike, which the prince or the state vseth by his factors; although there be few princes that doe vse it: and by the lawes of this realme, England, and Germanie, it is not lawfull for the gentry to trade in marchandise, else must he lose his qualitie: and by the law *Claudia*, no Senator of Rome might haue a vessell at sea contayning aboue fourtie bushels. *Questus omnis* (*inquit* *Lauius*) *patribus indecorus visus est*, All gaine (saith *Titus Linius*) was held vnseemely for the fathers. And afterwards by the Emperours decrees it was generally defended for all gentlemen and souldiers, and by the Canons for all church men to trade in marchandise. And the Persians in a mockery called *Darius*, Marchant, for that he forced them to those charges, which at the first they gaue him voluntarily. But yet in my opinion it is more seemely for a prince to be a marchant, than a tyrant; and for a gentleman to traffike, than to steale. Who is ignorant, that the kings of Portugall being restrayned within straight limits, and not well able to maintaine their estates, yet loth to oppresse their subiects, haue for these hundred yeares traded without reproch, and to the great enriching of their states? In the yeare 1475 they discovered the rich mynes of gold in Guinee, vnder the conduct of *John* Bassard of Portugall; and twelue yeares after the spices of Calicut, and of the East; and continuing their course to the Indies, haue so wel traffiked there, as they are become lords of the best ports of Affrike, and haue seized vpon the Ile of Ormus in despite of the king of Persia: they haue taken a great part of the kingdome of Marocco, and of Guinee, & forced the kings of Cambar, Calicut, Malache, and Canauor to do them homage, treating a league & commerce with the great *Cham* of Tataria: they haue pulled from the Turks & Sultans of Egypt the greatest riches of the Indies, and filled Europe with the treasures of the East, passing euē to the Molucques: which the kings of Castile pretend to belong to them, by a deuision made by pope *Alexander 6*, notwithstanding the marchants of Genua & Florence desired to free it for 350000 ducats, which *John 3* king of Portugal had paid vnto the emperor *Charles 5*, & to giue 100000 ducats more that they might haue free passage to those ilands which; the K. of Portugal would not yeld vnto, making account of the profit he draws from thence as of an infinit treasure, besides the gaine that comes to his subiects hauing much impaired the wealth of the princes of the East, & of the Venetians, who haue indured so great a losse, as of all the calamities they indured during their warres with king *Lewis 12*, they receiued no such losse as from the Portugals, taking from them their gayne of the Easterne parts.

The traffike of the
kings of Portugal

A Neither doth the Trade of Marchandize ingrosse dishonour, or imbase the the Signiories and nobilitie of Italie, neither did *Tully* disallowe of it, but of such as sold by reayle, whome hee tearmed *Sordido*. As for the traffique which Princes practise vpon their Subiects, it is no traffique, but an impost or exacti-
The Gentlemen of Italie trade in marchandie.
 on: which is, to forbid them to trade, and to put his subiects corne and wine in-
 to his receiuers handes, to pay them at an vnder rate, and to sell it vnto strangers,
 or to the Subiects themselves, at his owne pleasure. This was one of the reasons
 which made *Alphonso* King of Naples most odious; for that he gaue his Swine
 to his Subiects to make fat, and if by chaunce they died; he made them pay for
 them: he bought the oyle in Apulia, and gaue his owne price; and the wheat in
 B grasse, and sold it againe at the higgest price he could, forbidding all others to sell
 vntill he had sold his. But of all the traffiques and marchandize which Princes
 vse, there is not any more pernicious nor base, than the sale of honors, offices,
 and benefices, as I haue formerly sayd, the which may neuer be tolerated, but
 in the extreame necessitie of the Common weale, as the Venetians did, hauing
 spent in seuen yeres, that *Lewis 12* made war against them, fise Millions of Duc-
 kats, whereof they had made 50000 Duckats of the sale of Offices. The like
 reason mou'd King *Frauncis 1* in the yere 1527, to diuide the Ciuite from the cri-
 minall Magistrates, setting all Offices to sale to them that would giue most. The
 which was more fowle and dishonorable in Pope *Adrian*, who three yeares
 C before, not onely sold offices, but also benefices, as he did the Bishopricke of
 Cremona for 20000 Duckats, and had also resolved to leane two hundred and
 twentie thousand Duckats, by halfe a Duckat for euerie chimney within the ter-
 ritories of the Church, making his pretext of warre against the Turke. But for
 that these traffiques are so filthie, and of such dangerous consequence, the which
 being once begun, doe neuer cease, it were better to trie all other meanes, than
 once to giue way vnto them.

The sixt means to encrease treasure, is vpon the marchandize that are brought
 in, or carryed out, the which is one of the antientest and most vsuall in euerie
 Common-weale, and grounded vpon equities; which kind of custome the La-
 D rines called *Portoria*, as they did the tribute of the publike farmes *Decimas*, and
 of pastures *Scripturam*; and it is reason, that hee that will gaine by another mans
 subiects, should pay some right to his Prince or Common weale. Wherof there
 be diuers kindes, the which were reduced within this Realme to one impost of
 twenty Deniers vpon the liure or pound, by an Ediēt made by King *Henrie the 2.*
 and after reuoked, lest the customes and imposts should bee confounded, the
 which might prooue preiudiciall. King *Charles 5* abated the custome halfe, but
 afterwarde he restored it, the which was the twentieth part of the price, or
 fise in the hundred; and so the ancient Romanes tooke for custome of forraine
 marchandize: but afterwards the Emperours exacted the eight part, the which
 E they called *Ostuarium vectigal*, as in our time they haue demaunded the twelue
 part of the price. The Emperour of Turkie takes ten of the hundred of all
 Marchant strangers going out of Alexandria, and of his Subiects fise in the hun-
 dred. But in this Realme the contrarie is practised touching the salt, for the
 which the stranger payes nothing, but the duties of a Marchant, and the subiect
 payes *fortie and fise liures* vpon the *measure*, contrarie to the Marchants rights.
 And although the Salt of France bee the best and most plentiful in all Europe,
 wherewith the lowe Countreys, England, and Denmarke doe store themselves,
 yet is it farre deerer to vs, than to them: for since that the Store-houses of Salt

were let out, and the officers of the Custome suppressed, the measure of Salt F which the Marchant sold for ten shillings sterling, is now come to fiftie foure shillings: and since these warres, to eight pounds besides the Kings rights, and the carriage: so as all comprehended, it hath been sometimes sold for a hundred and eightene Crownes the measure, whereby the poore subiect hath bene ruined and the stranger enriched, yea sometimes the stranger brings it againe secretly to sell in France. This priuiledge was giuen vnto strangers by *Francis* the 1. that they might bring commodities and money into this Realme, rather than into Spaine: notwithstanding since it hath been verie manifest, that the stranger cannot be without the Salt of *France*: for *Charles* the 5. hauing forbidden his subiects of the lowe Countreys not to fetch any Salt in France, the estates G of the countrey made it knowne, that their fish (which is their greatest marchandize) grew drie, and was spoyled with the salt that came from Spaine and Bourgogne, getting leaue with great importunitie to fetch their salt out of France, being the sweeter. It is most certaine that no salt can bee made of salt water on this side the 47 degree, by reason of the cold: and the salt of Spaine is too corosiu: so as if the stranger payd but a fourth part of that which the subiect payes for the Kings rights, there would come an infinite masse of money into the Treasorie, for we often see the ships of England and the low Countreys come into France, onely with their ballast (hauing no commodities to exchange with them) to buy salt, wine, and corne, the which abound in this Realme, and H will neuer fayle; whereas the Mynes of mettall, which growe in the bowels of the Earth, are wasted in few yeares: yet strangers seeke it in the center of the earth to bring into this Realme, and to carrie away commodities necessarie for the life of man: which a wise Prince should not suffer to be transported, but for the ease of his subiects, and encrease of his Treasure, the which cannot be done without rayling of the foraine custome: for the greater the foraine custome shall be, the greater benefite shall come into the Exchequer: and if the stranger fearing the impost, shall buy the lesse, then the subiect shall haue it the better cheape; for all wares, the greatest treasures will be where there are most thinges necessarie for the life of man: although there be neither Mynes of gold nor siluer, I (as there are fewe or none at all in this Realme,) yet notwithstanding doth feed a great part of Europe as King *Scirippa* layd; and the countrey of Egypt hath neither Mynes of gold nor siluer, and yet both Affricke and Europe, are much releued with corne which growes there. If anyone will say, that by the treaties of traffique betwixt Princes, they cannot raise a foraine custome, I must answere, that this may take place amonge those which haue treated with that condition, but there are few of them; and yet it hath neuer been much regarded: for euen in the lowe countreys and in England, the french Marchants were forced in the year 1557 to pay a crowne vpon euerie tunne of wine that came into the port, and the subiects payd nine french crownes for the impost, K without any regard to the treatise of trafficke. And the yeare following, the the Queene of England did raise the foraine custome a third part, imposing thirteene shillings and a pennie vpon euerie peece of cloth, the which is a matter of great consequence: and I haue been assured from a Marchant of Antwerpe, that in the year 1565 there came in lesse than three moneths into the lowe countreys a hundred thousand peeces of cloth, accounting three karlies or three cottons to a cloth. It is therefore expedient to raise the foraine customes to strangers of such commodities as they cannot want, and by that means increase the

The mynes of
Fraunce are ne-
uer wasted.

Impost in Eng-
and vpon wine.

- A** the treasure and ease the subiects; and also to abate the custome of marchandise comming in, if the subiect cannot passe without them, you must raise the custome of things made by hand, and not to suffer any to bee brought out of strange countreys, and not to suffer any raw stuffs to be caried out of the land, as iron, copper, Steele, wooll, flaxe, raw silke, and such like, that the subiect may haue the benefit of the workmanship, and the prince the forraine custome, as *Philip* king of Spaine, had forbidden his subiects by an edict made in the yere 1563, to requite the queene of England, who had made the like three moneths before, the like edict was made in France by King *Henrie* the second in the yere 1552, concerning woolls: but there was a Florentin, who hauing gotten a passport by a
- B** courtiers means, caried away more wooll at one instant, than all other marchants had done before in a yere; and hauing it made into cloth at Florence, hee returned it into France, by the which he gained infinitely, the workmanship exceeding the stuffe fifteen parts: the which is a great incongruitie in matter of state and reuenues, to forbid a traffique vnto the subiect, and then giue leaue vnto a stranger: for both king & Commonweale in generall receiue an irreparable losse; and the marchants in particular are ruined. Behold six means to gather together treasure without oppresion of the subiects, vnlesse the custome of forrain marchandise that be necessary for the life of man were excessive. The seuenth means is vpon the subiect, the which they must neuer vse, vnlesse all the rest faile, and
- C** that necessitie forceth them to haue a care of the Commonweale, being sodenly oppressed either by the enemy, or by some other vnexpected accident; in this case seeing the defence of euerie one in particular, depends vpon the preservation of the generall, it is fit that euerie man straine himselfe; then are impositions laide vpon the subiects most iust and necesarie, and those charges which are then imposed vpon the citisens are religious and godly, without the which the citie were quite ruined. But to the end this extraordinary charge imposed during the warre, may not continue in time of peace, it is fit to proceed by way of borrowing; for that money is easilier found, when as he that lends hopes to receiue both his money againe, and thanks for his willingnesse. For when as *Hannibal* was in Italie, and did besiege euen Rome it selfe, the senate having consumed their treasure, would not impose new tributes vpon their subiects and confederats, (a verie daungerous thing, being then prest by the enemy) but the senators with one consent, brought their gold and siluer vnto the receiuers; being followed by the people with great ioy. And *Titus Liuius* saith; *Senatores pro se quisque aurum, argentum, as in publicum conserunt, tanto certamine iniecto, vt prima inter primos sua nomina vellent in publicis tabulis esse, vt nec Triumuirum mensarij accipiendo, nec scribae referendo sufficerent.* The senators bought their gold and siluer into the publicke with great contention, who should bee inrolled, so as the receiuers were not sufficient to tell it, nor the registers to inroll them.
- E** After the victorie obtained against the Carthaginians, the senate decreed to pay what had been borrowed; but for that there was not sufficient in the common coffers to satisfie them, the creditors presented a request to haue part of the citie lands assigned vnto them, the which shuld be valued by the consuls, vpon condition, that it might be alwaies redeemed, and to pay an asse of smal rent to the receiuers for euerie acre, only for a marke, and as a witnes that it was the city lands, the which was done. If the commonweale hath not wherewithall to pay, neither in mony nor lands, & the enemy doth presse it, then is there no redier means, than to make choise of those which are able to bare arms, which shuld be

No raw stuffs to be transported,

A trade forbidden to the subiects, and allowed to strangers, is the ruine of a country.

The seuenth means to make money.

The honestest means in time of publicke necessitie to make money.

Ceasing used in old time.

Liuius lib. 26.

Detestable inuentions of a tyrant.

Three kinds of impositions.

S. Lewis his testament.

armed and entertained at the charge of others, as the ancient Romaines did, so F as the common good and health of the citisents was defended by some, with the wealth of others. This kind of tribute is called rash and extraordinarie. From hence these extraordinarie charges first tooke their beginning, the which afterwards became ordinarie. As we read that *Denis* the tyrant, sometimes sought occasions of war, or of fortifications, to the end he might haue cause to raise new imposts, the which he continued, after that he had treated with the enemy, or discontinued the fortresses begun.

If my wishes might take place, I would desire that such detestable inuentions might be buried with the author. There be three kinds of tributes that bee leuied of the subiect, some extraordinarie; others ordinarie; and the third which G holds of both, and is called casuall: vnder which kinds is contained as well the reuenewes that rise of iurisdiccions, scales, coynes, waightes, and measure, as the money that is receiued vpon things sold, of what nature soeuer, or by gifts, legacies, or successions, or by the sale of offices, or in manner of a taxe, be it in the regard of cuerie mans person, (which kind of tribute is called *Capitatio* by the Latines :) bee it in respect of the moouable or immoouable goods, and of fruits which grow aboue or within the earth, as mynes and treasures, or that which is gathered at ferries, or passages, the which is rightly called *Portorium* *uestigal*, or of any other imposition that may be imagined, how filthie and beastly soeuer, for tyrants alwaies thinke the fauor of them sweet; as that tribute H which was vsually exacted from professed whores at Rome; and the sauing of vrine commaunded by *Vespasian*, the which his sonne taking vnworthily, the father held the first money that hee receiued next of that tribute, to his nose, asking him if it smelt ill, and hee denying it, *Atqui inquit è lotio est*. But sayth he, it comes of the vrine. Of which charges and impositions, the most ancient are reputed reuenewes, as the forraine custome; others are ordinarie, as taxes; and the last are extraordinarie, the which the Latines called *temerarium tributum*, a rash tribute: as subsidies imposed vpon free townes and priuiledged persons, tenths, charitable gifts equiualent to tenths, the which are leuied by commission. And to speake properly, the taxes, ayds, grants, tolles, and such like were meere I subsidies and extraordinarie charges, before *Lewis* the ninth, who first leuied the taxe, as president *le Maistre* hath obserued: but hee doth not say, that it was as a necessarie subsidie during the warres; and that hee made an ordinarie receit thereof; but contrarywise adressing himselfe to *Philip* his eldest sonne and successor, he vseth these words in his testament, the which is yet found in the treasure of France, and is registred in the chamber of accounts: *Fili, religiosus imprimis erga Deum esto: benignus & liberalis aduersus egentes, legum ac morum huius imperij custos ac vindex acerrimus: à uestigalibus & tributis abstinetò, nisi te summa vis necessitatis ac utilitatis publicæ iustissima causa ad hoc impellat, sin minus, tyrannum te potius, quàm regem futurum putato, &c.* Sonne, be first deuote and religious towards K God, be mild and charitable to the poore, obserue the good lawes and manners of thy realme seuerely, exact no taxes nor subsidies of thy subiects, vnlesse that vrgent necessitie or the profit of the Commonweale presse thee vnto it; if thou doest otherwise, thou shalt be esteemed a tyrant and no king, &c. Some one will say vnto me, That king *Clotaire* did exact the third part and reuenewes of churches: and *Chilperis* the 8 part of euery mans wine growing, and it seems that the impost of the 8 part of the wine, the which now is imposed vpon vinteners, tooke his beginning from hence: and that *Lewis* the yong during 4 yeres, tooke the

A the twentieth part of his subiects reuenewes in the yere 1167; yet it is most certaine that this was but an extraordinarie subsidie during the warre, as that *temerarium tributum* imposed by king *Charles* the sixt, for it was decreed in our open Parliament, called by *Philip* of Valois in the yere 1338, that no impost should bee raised vpon the people without the consent of the three estates: and in stead of three hundred and fortie thousand pounds sterling, which king *Lewis* the eleuenth did leuie the yere that he died, besides the ordinarie reuenewes of the crowne, the deputies of the three estates held at Tours, offered vnto *Charles* the eight, his sonne comming to the crowne, in manner of a beneuolence for two yeaes, the like graunt that was made vnto *Charles* the seuenth, and for his entrance a hundred thousand crownes to bee paid for once onely, the which he might not after wards challenge as a due, nor call the graunt a taxe or impost. The which hath beene alwaies, and is still obserued in Spaine, England, and Germanie: as *Philip Comineus* said in open parliament, in the raigne of *Charles* the eight, That no prince had power to lay any imposition vpon his subiects, nor to prescribe that right without their consents. And wee see in all commissions sent out for the leuying of taxes, and subsidies, the king useth that antient protestation to free them, as soone as necessitie would suffer him.

No Prince can lay any subsidie vpon his subiects without their consents.

And although that *Philip* the long did exact but the fift part of a peny vpon euery two shillings worth of salt that were sold, yet he publickly protested to discharge the subiects of it. *Philip* of Vallois vsed the like protestation, being forced by the extremitie of warre to double the sayd custome, declaring by his letters patents in the yere 1328, that he meant not to haue the imposition vpon the salt incorporate to the reuenewes; and yet there is no custome seems more easie than that of salt, the which is common to all the subiects: yet in the popular estate of the Romaines, and in the hottest of their Punicke warres, the impost of salt being set on foot by *Linus* and *Claudius* censures; *Linus* was called *Salinator* in derision: but a peace being graunted to them of Carthage, it was taken away againe: either for that there was nothing more necessarie for the life of man, or for that it was done without the peoples commaund. And for that the lightest kinds of tributes and imposts seeme heauie and burdensome vnto the poore and weake, yet could not the senators maintaine the treasure of Rome without new impositions: the people being freed from all taxes and customes by the law *Valeria*, after the expulsion of their kings: therefore *C. Manlius* the Consull made a law with the authoritie of the Senare, (the Armie lying at Sutrium) that such as were made free, should pay the twentieth part of all their substance into the Exchequer: with which tribute, although the ciizens were nothing oppressed, yet being vnderstood, the Tribune made a defence vpon paine of death, That no man should attempt the like without the peoples priuie. And *Augustus* made the law *Iulia*, That whatsoever should come to any one by inheritance, legacie, or gift for death, the twentieth part thereof should belong vnto the common treasure, both these impositions were profitable to the Commonwealth, and pleasing to either of them: to the one, for that they possesse anothers inheritance; and to the other, for that they obtaine their liberties. But for that the emperours which succeeded *Augustus* exacted the twentieth part of all inheritances and legacies, *Traian* therefore abrogated the said law *Iulia*, the which many haue labored to reuiue, changing the name of it: yet had they not then the hundred part of those tributes, which since the necessity of some, and the couetousnesse of others haue inuented. And when as *Samuel* prince of

The beginning of the custome of salt.

Linus lib. 2.

The tribute of the twentieth part most pleasing.

The tenths of
the subiects
fruits was the
first tribute.

Inuenters of
new imposi-
tions most com-
monly slaine.

All Impositions
are not to be a-
bolished.

Abundance of
gold and silver
hath made
things deere.

the Israelites spake vnto the people, who demaunded a King of him, he added F
threats of bitter tributes, *Ergo inquit regem habituri estis qui decimas fructuum, im-*
peraturus est, Therefore sayd he, you shall haue a King which shall command
the tenths of your fruits. Neither did *Cipselus* the first Tyrant of Corinth, ex-
act any other tribute of his subiects, but the tenths of their fruits: there were then
no taxes, subsidies, tolles, and a thousand such like. So the greatest part of the
Inuenters of these new Imposts haue lost their liues; as *Philistus* parasite to
Dyonisius the tyrant, who being drawn out of the tyrants castle, was slaine by the
people of *Syracusa*: and *Parthenius* or *Proclerus*, who was slaine by the people of
Trenes, for giuing counsell to king *Theodoric* to oppresse his subiects with new
subsidies: and of late daies *George Prescon* Parasite to *Henrie* king of Sueden, was G
cruelly put to death in the kings pallace, and the king himselte expelled his e-
state. What shall I speake of *Achæus* King of the Lidiens, whom his subiects
did hang by the feet with his head downeward into a riuer, for the subsidies
which hee imposed vppon his people: and *Theodoric* king of France lost his
crowne for it. How comes it that the Netherlanders haue reuolted from the
Spaniard, but for that the duke of Alua would exact the tenth pennie of eu-
erithing which was sold, whereby he would haue gathered an infinite treasor, or
rather the wealth of all the countrey, being most certaine that one thing might
be sold often in a short time, and well knowne that the marchandise sold in one
day amounted to seuentie thousand ducats, as a Spaniard himselte did write. H
The Histories are full of these examples, for nothing doth sooner cause changes,
seditions, and ruines of States, than excessiue charges and imposts. But as the
Prince must haue a care not to impose any charges, but when warre doth force
him, so must he take them away when he hath obtained a peace: yet must they
not runne from one extreame vnto another, and abolish all imposts and taxes, ha-
uuing neither lands nor reuenewes to maintaine the Common weale; as *Nero*
the Emperour would haue done, who hauing wasted all the treasure, sought to
abolish the tributes, whereof the Senate being aduertised, they thanked him for
his good will to the people, yet they dissuaded him from doing it, saying it would
be the ruine of the Commonweale. Many seditious citisens, and desirous of I
innouationis, did of late yeares promise immunitie of taxes and subsidies to our
people: but neither could they doe it, or if they had could, they would not, or
if it were done, should we haue any Commonweale, being as it were the ground
and foundation of a Commonweale. There were more reasons to haue the ex-
cessiue gifts cut off and reuoked, and that an account should be made of the trea-
sure wasted: but to take away all impositions before that the reuenewes bee re-
deemed and the debts payd; it were not to reparaire, but to ruine the state. And
most of these men which seeme to vnderstand the affaires of state so well, are
greatly abused with an old inueterate opinion, that all charges and imposts must
be reduced to that proportion that they were in the time of king *Lewis* the 12, K
and consider not that since that time gold and silver hath come in so great abun-
dance from the new found Lands, namely from Peru, as all things are growne
ten times deerer than they were; as I haue prooued against the Paradox of
Malestroit: the which may bee easily seene in the ancient customes and contracts
of this Realme, where wee shall find the value of fruits and victuals to bee ten,
yea twelue times lesse than it is at this day. Wee find in the Registers of the
chamber of Accounts, That the Chancellor of France in the time of S. *Lewis*,
had for the charges of himself, his horses, and seruants, seuen soulz Parisis allowed
him

- A him a day; the which is not eight pence halfe-penie of our money : and if hee staid in any Abbey, or other place where he spent nothing for his horses; it was then abated in his wages. I haue shewed that *Charles* the 5. king of France payd but 31000 crownes for the countie of Anxerre: and that the duchie of Berrie was bought by *Philip* the 1 of Herpin, for threescore thousand crownes: and the countie of Venice and Auignon were engaged for fortie thousand Florins. To conclude, I haue made manifest that many Earledomes, Baronies, and great Signiories haue beene sold a hundred or fixe score yeares since, twentie times better cheape than they are nowe, for the aboundance of gold and siluer that is come frō new-found Lands: as it happened at Rome, when as *Paulus*
- B *Æmilius* brought such infinit store of gold and siluer from the realme of Macedon, suddenly the value of lands did rise to bee treble in price : and at what time *Cesar* brought the treasure and spoyles of Egypt to Rome, then did vsurie fall, and the price of lands did rise : euen as it happened to the Spaniards after the conquest of Peru by *Frauncis Pizara*, a small vessell of wine in that country cost 300 ducats, a Spanish cape of Frizado a thousand ducats, and a lennet fixe thousand; the which was by reason of the aboundance of gold and siluer which they found at Peru, and brought into Spaine : and namely of the ransome of king *Atabalipa*; who paid the value of ten millions, three hundred twentie and fixe thousand ducats, besides twise as much that came to priuate men, cap-
The great treasure taken at thy Conquest of Peru.
- C taines, soldiours, and euen to the receiuers themselues, as *Augustus Zarata* master of the Accounts to the king of Spaine doth testifie. Since great store of gold and siluer hath beene brought out of Spaine into France to buy corne and other necessarie commodities, which are transported into Spaine in great abundance, so as the prices of all things haue risen: and so by consequence the wages of officers, the pay of souldiours, the pensions of captaines, and in like sort euerie mans employment, and by the same reason the rents of Farmes haue, risen; for he that had but ten pounds a yeere rent, hath now a thousand of the same fruits he then gathered : wherein they are greatly abused that would reduce the prices of corne and victuals to the antient orders. We must then conclude,
- D that the account of the reuenewes vnder king *Charles* the 6 in the yere 1449, which came but to fortie thousand pounds starling; was not much lesse (in regard of the value of things) than the reuenewes of fourteen hundred thousand pounds starling, the same yeare that *Charles* the ninth died, in the yeare one thousand, five hundred, seuentie & foure; and yet the people complained at both times that they were oppressed with tributes. And the ransom which king *Lewis* the 9 paid to the sultan of Egypt of fiftie thousand pounds starling, was not much lesse than that of king *Francis* the 1 of three millions of crownes: and although that king *Iohn* were let at the same ransome by the king of England, yet was it held so excessiue, as they were six yeares in leuying of it; but *Frauncis* the same
The Reuenewes of France vnder Charles 6. & 9.
The Lord of Iennuille in the life of Lewis. 9.
- E yeare a peace was concluded, sent his ransome into Spaine. We must iudge the like of the yearly pension of 900. pounds, that was assigned vnto *Charles* the faire, sonne to *Philip*, not to be lesse, than that of ten thousand pounds starling yearly, that was giuen first to *Henrie*, and then to *Frauncis* dukes of Aniou from king *Charles* the 9 their brother. And much more honourable might they liue with that pencion, which I made mention of vnder *Philip*, than with that which *Charles* the 9 gaue vnto his brethren. Nor the Dowries of 400000 crownes assigned to euerie one of the daughters of king *Henrie* the 2, were not so great as those of sixtie thousand crownes assigned to the daughters of
 France

The reuenewes
of Egypt vnder
Ptolomie.

The Turks re-
uenewes.

France by the law of king *Charles* the 5. The like may be spoken of other **F**
people, as in old time in the East, so at this present in the West. For we read
in *Strabo*, that *Ptolomie* the piper, the last king of Egypt of that race, did raise vp-
pon the countrey of Egypt the value of seuen millions, and fise hundred thou-
sand crownes a yeare, and sultan *Solyman* did leuie but a hundred thousand du-
cats of the same countrey, as appeared by an extract of the reuenewes made
by *Gritty* a Venetian, in the yeare 1520, when as the estate of the whole reue-
newes came not to aboue foure millions; for foure yeares after he raised it vnto
six millions, as *Paulus Iouius* saith, and now he leuieth aboue twelue millions year-
ly, for the great abundance of gold and siluer, that is brought out of the West
and East; which summe notwithstanding may seeme but little, for that we read in **G**
Plutarch, that the dictator *Silla* did taxe the charges of Asia the lesse, before the
conquests of *Lucullus* and *Pompee*, at twelue millions of crownes, the which is
not aboue the sixt part of the Turks empire.

The reuenewes
of the Duke of
Florence.

Sometimes the bountie of the land, and the great trade, and oftentimes the vn-
reasonable greedinesse of princes to heape vp treasure, make some richer than
others: It is well knowne that *Charles* the fift gathered more reuenewes out of
the duchie of Milan; then king *Francis* the first, at the same time did leuie in this
his realme, which flowed in all abundance; who doth not know that he com-
maunded more out of the lowe Countreys, than the reuenewes of England
were esteemed in those daies. Some one not long since, (seeking to perswade **H**
Charles the ninth to encrease his taxes) did perniciously maintaine in open coun-
sell, that *Cosme* duke of Florence did raise out of his estate six millions, hauing
but a small territorie: the which was false, for hee receiued out of the estate of
Florence, but twelue hundred thousand crownes, and out of that of Sienna two
hundred thousand at the most. But a new prince shall doe wisely at his first en-
trance, to cut off the extraordinarie exactions of his predecessor, or at the least a
great part of them, as well in regard of his owne dutie, as to get the good will
of the people, if he be required; yea before he be required, and not to imitate
Roboam, who following the wicked counsell of wicked men, did not onely re-
fuse the humble petitions of his subiects, but vowed openly that he would bee **I**
crueller than his father had been, whereupon ten tribes fell from him, and crea-
ted them a new king. True it is, that to hold a certaine estate of impositions, they
must be made in their proper kinds, as in corne, wine, and oyles; and as for mar-
chandise in siluer, it is the forme which the kings of Poland haue alwaies, and
doe still vse, and the king of Ethiopia receiues cloth and other marchandise for
his custome. But to require to haue taxes and subsidies quite taken away, or
reduced to the antient custome, without any regard of the value of things, or
the changes that haue happened; this were not to relieue, but to ruine an
estate.

It is an ordinarie thing in changes from a tyrannie to a popular estate, to abo- **K**
lish all imposts, taxes, and subsidies for a signe of libertie, as they did in Rome, at
the request of the consull *Valerius*, after they had expelled their kings: but eue-
rie man was faine to goe to the warre at his owne charge, then afterwards to pay
the soldiours, and afterwards to taxe themselues by the raising of new imposts.
True it is, that the Romaines did therein shew themselues verie iust: for at that
time there were none that bare the charges, but the noble and the rich, the poo-
rer sort went free; and now adaiies we see none but the poore pay, and the rich
goe scot-free. The like was in Suifferland, and at Lindaw, after they had expelled
their

A their Lords. Other doe free the chiefe cities and great Lords, and charge the weaker sort: as the Athenians did, when they were the stronger, they did free their owne citie against the tenor of the allyance made with the other cities of Grece, and in stead of sixtie tallents, they so augmented it, as in lesse than three-score yeares they made them pay twelue hundred yearly, the which amounts to 720000 crownes. And when as *Themistocles* captaine of the Athenians, demanded the tribute of the Adriens, saying; That hee would bring with him two mightie gods, Force and Loue: they answered, That they had two more mightie, Pouertie and Impossibilitie.

The reuēnewes
of the Atheni-
ans.

Plut. in Themist.

And commonly the greater cities lay the burthen vpon the champion coun-
B trey, and the richest peasants vpon the poorer, as it hath been heretofore in this realme, whereas the great cities were freed; and in old time the citie of Babilon (the greatest that euer was) remained free from all charges: the which is done lest the greater should hinder the imposts. But it falls out as in mans bodie, where as the strongest and noblest members cast all superfluous and vicious humors vpon the weaker, and when as a poyson is so swolne as the weaker part can endure no more, then must it breake or infect all the members: euen so it falls out when as the rich cities, the nobilitie and the clergie, lay all the charge vpon the poore labourer, he sinks vnder his burthen like vnto *Asops* Ass, and the horse which would carrie nothing; that is to say, the nobilitie and the clergie, are forced
C some to carrie the tenths and extraordinarie subsidies, others to sell their goods, to make warre at their owne charge, and to pay the taxes and imposts directly or indirectly. For the like cause, the nobilitie and clergie of the realme of Denmarke haue been forced to taxe themselves since the yeare 1563, to maintaine the charges of the warre; but it was vpon condition, that the king should not meddle with the money. The nobilitie and clergie of England, euerie man (according to his abilitie) was subiect to taxes & subsidies, according to the ancient custome of the Grekes and Romaines; yea almost of all nations. I except our nation the French, with whom, as *Cæsar* saith rightly: *Nil est plebe contemptius*,
Nothing is more contemptible than the common people.

The French cō-
temne the com-
mon people.

D To remediethis inconuenience, the antients did wisely order, That all charges should be reall, and not personall; as it is put in practise in Languedoc, and since in Prouence by prouision, according to the disposition of the lawes, to the end that the rich and the poore, the noble and the peasant, the priest and the laborer, should pay the charge of their land that is to be taxed: the law exempts neither bishop nor nobleman. In other governments, if there be a clergienian, a noble man, a counsellor, & a vigneron, the last paises for all, and the others are free, not only for their fees, but also for otherailable lands. If then necessitie force the prince to raise some extraordinary imposts, it is needfull it should be such as euerie one may beare his part, as is the impost of salt, wine, and such like things. And
E to take away occasion of seditions, which doe often chaunce for the impost of small things sold by retaile, it were expedient to conuert that impost into a generall summe, as it was put in practise by *Charles* the first, with the consent of the estates, for the freeing of king *Iohn*, the which was 12 deniers vpon euerie liure, or two shillings of goods that were sold; the which was changed to an equivalent, first in the countrey of Languedoc in the time of king *Lewis* the eleuenth, yeelding for the said impost 6000 pounds sterling yearly: and the like hath been also done in Auvergne for the salt, the which the countrey hath exchanged into a certaine summe: and for the same reason the impost which was taken vpon all
small

Taxes must be
reall to ea's
the poore.

Vniust distribu-
tion of subsidies
in France.

Not pennit fare
thing.

Tauelleur or
Gabelleur.

What impost is
most honoura-
ble, profitable,
and necessarie.

The wisdom
of the emperor
Augustus.

An impost vpon
sutes.

The cause of
many sutes in
France.

small wares, haue ben abolished in many Commonweales, for the complaints, se-
ditions, and exclamations of the poore people against the toll-gatherers, who al-
waies tooke more in the kinde than they ought. But if any one shall demanda
of me, which kind of imposts are most plealing vnto God, most profitable to the
Commonweale, and most desired of good men, for the reliefe of the poore: it is
that which is layd on those things which serue onely to corrupt the subiects, as
all kinds of dainties, perfumes, cloth of gold and siluer, silkes, cipresse, laces,
rich colours, womens painting, pearles, precious stones, and all kinds of works
of gold, siluer or enamell, & such like things, which are not to be forbidden: for
such is the nature of man, as they esteem nothing more sweet & goodly than that
which is stricktly forbidden them; and the more superfluities are defended, the
more they are desired, especially of men that are simple and ill bred: you must
therefore raise them so in price, by means of the impost, as none but the rich and
those that are curious shalbe able to buy them. And therefore these princes that
liue towards the North, lay great imposts vpon wine, the which although it be
dere, yet their subiects are so desirous thereof, as they drinke themselves drunke.
And for this cause *Cato* the censor was commended, for that he layd a great im-
post vpon the sale of slaues, that should exceed fiftie crownes price, for that such
marchandise could not be warranted.

The emperor *Augustus* did more wisely, who to correct the disordinate
lust of his subiects, made lawes for marriages, by the which he imposed a tax
in manner of a fine, vpon those that did not marrie after the age of 25 yeares, or
that were married and had no children, inioyning them to bring a part into the
treasurie of such successions or legacies as were casually left them, giuing good-
ly immunities and priuiledges to such as had children: by which lawes *Augustus*
purchased the commendation of a wise prince. For hereby he did both punish
whoredome, adultery, & sodomie, and also force euery one to seek him a lawfull
wife and children, taking away nothing of any mans present estate, but onely
the tenth part of that inheritance which came vnto him accidentally from his
friends, filling the treasury with money, and the Commonweale with good and
vertuous citizens. Which law *Iustinian* the emperor did vnadvisedly blame,
and likewise *Constantin*, who abrogated the law for punishing them that liued vn-
married, or that had no children. But the emperors *Honorius* and *Theodosius* gaue
the priuiledge of children to all subiects, which was to giue way to adulteries
and to all detestable vices, causing marriages and the procreation of children to
grow in contempt, whereby the citie grew bare of citizens, and the empire be-
ing found in a manner wast, was seized on by a deluge of Gothes, and other bar-
barous nations of the North. These kinds of impositions which are inuented
for the punishment of vice, seeme not onely iust, but verie profitable.

There was also another impost of ten shillings vpon euery sute in law that
was not criminall, to punish those that were too apt to plead, the which many
haue found strange, and in the end haue taken it away: but there was neuer any
more needfull in this realme, where there are more sutes than in all the rest of
Europe, the which haue much increased since the time of king *Charles* the sixt,
when as an edict was made, to take away the antient custome, by the which no
man was condemned to pay any charges that had lost his sute: for in former
times they were not so apt to plead: and it may be, our antient fathers, knowing
the dispositions of the French, had brought in this custome (although it were
vnjust of it selfe) to diuert the subiects from attempting of sutes rashly. And al-
though

A though the Romaines in a free Commonweale could hardly beare any imposition or tributes, yet did they willingly endure a taxe set vpon suites and controuersies, much more heauie than that which was imposed in the time of *Charles* the ninth, by the which, he that did attempt a sute against any man, was forced to consigne two crownes into an officers hands; the which hee should receiue againe from the aduerse partie, if he did recouer his suit, or if he were vanquished, to loose them as a punishment of his rashnesse: but the Romaines tooke the tenth part in all ciuile causes, and the fift in criminall, as *Pompeius Feslus* doth witness: yet *Marcus Varro* writes, that either of the parties did lay downe five hundred asles, which coms to about 10 shillings of our mony; and he which won, recovered his money which he had consigned, and this was besides the thing for which they contended, the which was called *Sponsio & sacramentum*, and if any one refused to consigne, hee yeelded to the other. The Hebrews did alwaies cause him that did willingly denie a debt, to pay it double, as wee read in their pandects. And although the consignations which were made in Rome vpon suits were diuers, yet the emperour *Caligula* extorted against reason, the fortieth pennie of all that was demaunded by law, without any prefixion or limitation, whether the cause were iust or vniust. But of all marchandise which tend to pleasure, lust, and pompe, the imposition is honest and profitable, seruing to no other end but to corrupt the simplicitie of the subiect, the deereſt of all (which is Amber gris) the which is valued but at twelue pounds sterling, should be priced at 300 crownes.

The excoſſion
of Caligula.

The law sets no impost vpon marchandise, but vpon spices, and such pretious marchandise, as are specially named, as skins of Parthia and Babilon, silkes, fine linnen cloth, painting, Indian haire, wild beasts, and Eunukes. Such impositions are alwaies commendable, and farre more supportable without comparison, than that which is layd vpon the asse, the ox, wine, and such like. And all good princes haue abhorred that impost which they called *Capitatio*, for to lay a charge vpon mens persons for their worke, were to make warre to good wits, if they haue not some great trade, and by that means haue gathered together great wealth, for the which they must beare some charge; the which is not properly *Capitatio*, but with the weaker sort they must deale mildly, especially with the husbandman, which doth not till his own land. Neither are those impositions to be allowed which employ all their studies to inuent new taxes & exactions, seeking by all means to incorage princes therunto; as that multiplier (whose name I concele for honors sake) who not many yeres since at a parliament held at Blois, made a declaration, That the king (besides al other ordinary charges) might with oppression or grievance of poore or rich, raise thirtie millions: the king sent this man to the three estates, to expound the heauenly gift of God.

Interdum & de
vectigal.

And although we had many excellent wits and of great iudgement, yet had he abused many with his opinion, if we had not laid open his errour and deceit. He supposed that France was two hundred leagues long from Bologne to Marfeilles, and as much from Mont *S. Bernard*, to *S. Iohn de Luz*; and by this he concluded that France had fortie thousand leagues in square, and that euerie league contained five thousand acres of ground, which amounted to two hundred millions of acres, of the which he abated the one halfe for waters, waies and wast land, and of the rest hee would haue the king take a soulz for an acre, the which amounts to five millions: then he made an estimate of six hundred thousand townes and villages, and in them twentie millions of fiers, of the which he would

A soulz is not a
pennie farthing.

625000 pounds
sterling.

In France there
are but 27400
parishes.

The aduise of
Ierosime Laski
for the heaping
up of treasure.

The mounts of
pietie in Italie
honest and pro-
fitable.

would haue the king take six pence of euerie fier, which comes to six millions F
and two hundred and fiftie thousand liures. Moreouer he made an account of
fifteen millions of all sorts of marchandise, of the which he tooke a soule of the
marchant for euerie thousand liures, making the former twelue millions. And
vpon the said six hundred thousand townes and villages, one with another ele-
uen soule apeece, the which comes to twelue millions, and six millions and a
hundred of liures more, which then the foure tenths came vnto, all which make
thirtie millions, besides the aids, taxes, customes, grants, imposts, subsidies, and
reuenewes of the crowne, which came then to fifteen millions, wherein his de-
ceit was verie apparent; first making France square, the which is in fourme of a
Lorange much lesse than a square; next he makes the fertill land equall to that G
which is wast and fruitlesse (although there is not any land, be it neuer so fertill,
whereas two third parts at the least lyes not wast) taxing the nobilitie and the
clergie as well as the rest. And as for 600000 townes and villages, it is an impu-
dent lye; for that by the extraicts drawne out of the chamber of accounts, and
brought to Blois to the estates, there were found to be twentie seuen thousand
and foure hundred parishes in France, taking the greatest towne but for one
parish, and the smalest villages hauing a parish for another: and in truth the num-
ber of parishes taken by king *Henrie* the second in the yeare 1554, came but to
24824 parishes, besides Bourgogne & Poictou, and the impost of three pounds
sterling vpon euerie parish, came but to threescore and fourteen thousand foure H
hundred eightie one pounds. *Ierosime Laski* a Polonois, father to the Palatin
Laski, whom we haue seen Ambassador in France, inuented another manner of
meanes than this former, to encrease the treasure, giuing aduise to raise three
imposts vpon the subiects, and to make three mounts of pietie (for so he calleth
them.) The first was in taking the moitie of euerie subiects reuenewes, for once:
the second was the twentieth part of his reuenewes yearely; and the third
was to haue the eight part of things sold in grosse, or by retaille. But his aduise
was reiected as pernicious and most impossible: for in matter of impositions
there is nothing that doth more kindle seditions, than to charge the subiect with
many things at once, especially a war-like people, and bred vp in libertie, as those I
of Polonia bee. And yet he gaue a goodly name to a wicked and pernicious in-
uention, calling the grounds of such impositions, Mounts of pietie. For the
mounts of pietie in the cities of Italie are profitable, honest, and charitable,
& inuented to ease the poore; and those of *Laski* do ruin them. There are mounts
of pietie at Florence, Sienna, Luques, and other cities, wheras he that hath one
daughter, the day of her birih hee may put what summe he will into the mount
of pietie, vpon condition to receiue ten times as much to marrie her withall,
when she comes to the age of eightene yeare; but if she dies before, then doth
it accrue vnto the mount, vnlesse the father hath other daughters, to whom the
portion shall come succeßiuely. Another mount of pietie is, for the lending of K
money to poore men at five in the hundred, giuing a sufficient pawne, and not
aboue ten crownes; if the debter paies not his ten crownes at the time prefixt,
the pawne is sold to him that wil giue most, and the surplusage deliuered vnto the
debtor: this is done to preuent excessiue vsuries, (wherewith the poore in
those countreys are ruined) and the seizure and selling of moouables at an vnder
price.

Notwithstanding I find that the emperour *Antonine* surnamed the *Pius* or
godly, inuented a better mount of pietie, which was to deliuer out the money
that

A that came cleere into the treasurie, all charges paid for five in the hundred vpon good and sufficient caution. By whose example *Seuerus* restored the treasure that was wasted, and the marchants and poore men gained much by traffique: and the publicke in a great summe did also gaine much: for if they lent a million, at the yeares end they did get fiftie thousand crownes for the publicke, and priuate men got twise as much by traffique: and besides all this, the greatest benefite that did arise, the publicke treasure was assured out of the pawes of theeues and horse leeches of the court. And for this reason onely as it seems, the emperour *Augustus* long before, was accustomed to lend the money which came cleere into the Exchequer, without any interest, giuing good assurance of land; and vpon a penaltie to forfeit the double, if it were not paid at the day: by this means the publicke treasure was not idle, nor wasted by the princes prodigalitie, nor exhausted by theft, but a great benefite redounded to all in generall, and to many in particular. And here some one may object, that although *Augustus* did not lend the publicke money for interest, yet hee imposed a penaltie of the double, if it were not paid at the prefixed day, the which is greater than any vsurie, and therefore forbidden by the law. In my opinion, that penaltie is then disallowed by the law when we stipulate any thing fraudulently, and aboue the lawfull interest: but he that hath taken the publicke money, and restores it not at the appointed day, he commits theft; it is therefore the penaltie of theft, and not of vsurie.

A commendable institution made by Antoninus Pius.

Tranquil. in August.

A forfeiture of the double forbidden by the law. L. pecun. de vsur.

C Those princes therefore did wisely in old time, which provided for the necessitie of the Commonweale, and the profite of priuate men. But the contrarie is vsed in our daies; for princes in stead of giuing out vpon reasonable interest, borrow and pay vnreasonable vsurie: and not onely princes, but also lords and Commonweales, some more, some lesse: those which haue been held the most frugall, as the Venetians, borrow alwaies at five in the hundred, without any hope to recouer the principall, or at foureteene in the hundred, so long as the creditor shall liue. The colledge of Saint *George* at Genes takes money of all men at five in the hundred, and deliuers it out againe at the highest interest to princes and marchants; whereby they are so enriched, as they haue redeemed the Isle of Corsica, and the lands of the Commonweale. Priuate men had rather take five in the hundred of the colledge, to bee assured of their principall, than much more of priuate men, who oftentimes become Bankrupts: the Venetians haue alwaies lost, and shall loose, so long as they shall take eight in the hundred or more: or else they must abate their interest, as they haue by little and little abated Mount Vecchio, cutting the creditors so short, as they dare not so easily put in their money as they were wont.

The ruine of princes is to take vp at interest.

E This meanes was also brought into Fraunce by the cardinall of Tournon, at such time as hee was in credit with king *Frauncis* the first, whom he perswaded (by the instigation of certaine Italians) that there was no other meanes to draw the money from all parts into Fraunce, and to frustrate the enemies hereafter, than to settle a banke at Lion, to take euery mans money, and to pay him eight in the hundred, so as in short time hee should get into his hands all the money of Italie and Germanie: but in effect the cardinall sought to assure an hundred thousand crowns which he had in his coffers, & to get all the interest he could. Letters patents being granted, at the opening of the bank, euery man came running from France, Germanie and Italie, so as king *Frauncis* the first, when he died, was found indebted to the banke of Lion, five hundred thousand crowns,

The originall of the banke of Lion.

the which he had in his coffers and sometimes more, and a peace concluded with F all the princes of the earth. But the raigne of *Henrie* his sonne grew most lamentable, for hauing wasted his fathers treasure, and standing in need of money in the yeare 1554 borrowed at ten, twelue, and sixteene in the hundred, of the Caponyes, Albicis, and the Foucquers of Germanie, and when he was not able to pay the interest, he promised the creditors interest vpon interest. The emperor *Charles* 5 did the like for his part; true it is, he payd but ten and twelue in the hundred. And the same yeare *Henrie* the eight king of England, borrowed a hundred thousand crowns of the German marchants at twelue in the hundred: euerie one hoping to draw money and wealth vnto him by the desire of vsurie. And whereas our king *Henrie* the second thought to draw most money vnto him G by paying of more interest than the emperor or king of England, he began to loose his credit, for the wisest husbands concluded that in the end he would not be able to pay neither principall nor interest; for the interest of sixteene in the hundred, came at the least to eighteene in the hundred, detaining the interest which he could not pay: whereas the emperor made shew that he would free himselfe, giuing cities and communalities for cautions, paying the old debts with new borrowing, and euerie man lent him seeing him pay so willingly. But at this day many will free both principall and interest, to haue but thirtie paid them for a hundred; so as after the death of *Henrie*, all was filled with the complaint of creditors: and such princes and Signiories as had money in the banke at Lion, H were much altered, and not onely the Signiories of the Cantons, the princes of Germanie and others had their parts there, but also *Baschas* & marchants of Turkie were there in their Factors names for aboue five hundred thousand crowns; and nothing did more withhold the great Turke from succoring of the French in their last voyage of Naples, vnder the duke of Guise, than the not paying of foure thousand crownes for interest to *Rustan* Bascha, besides the ten thousand which *la Vigne* the ambassador carried him in the yeare 1556, fearing to loose his principall, as I haue learned by letters and instructions from *la Vigne*, for many did not buy rents for a certaine summe of money, but would haue the interest pure and simple, and vpon condition that they should haue their principall I againe: as many Italians doe with priuate men, to whom they lend their money simply hauing them bound both bodie and goods, without making any mention of interest, and yet by a verball agreement, they promise sixteene or twenty in the hundred; if he faile to pay the interest, they seaze vpon bodie and goods for the principall: and although the interest be paid, if they haue need of their principall, they proceed by way of execution against the debtor, for he hath neuer any quittance nor witnes for the interest which hee receiueth. Behold by what meanes they draw the money out of this realme.

The *Baschas* of Turkie had money at interest in the bank at Lion.

The policie of Italian vsurers.

Ancient laws against Italian vsurers.

There are other trickes which I forbear to touch, but for this cause king *Le- wis* the ninth in the yeare 1254, and *Philip* the Faire in the yere 1300 did banish all K Bankers and Italian marchants out of Fraunce, confiscating their goods: and to discover the debts that were owing them, it was decreed that the debtors shuld be freed from all arrerages and interests, paying the principall to the treasurers. And since, in the yeare of our Lord one thousand three hundred fortie and seuen, *Philip* of Valois for the like cause did forfeit all their goods: for it was verified by the processe that was made, that for foure and twentie thousand pounds starling, they had in few yeares profited two millions and foure hundred and fortie thousand pounds starling: and in harred of such vsurie

A vsurie the Lombards letters haue been alwaies taxed in the Chancery at double and although these people haue been often banished the realme, yet there were neuer more in any place, nor will euer bee wanting, so long as princes take vp at interest. Since and before that the banke of Lion was broken, most of the cities of this realme haue lent vnto the king vpon the reuenews, customes, imposts, and tenths for realonable interest, and those which held themselves to be of best iudgment in matters of state and treasure, aduised it for two ends, the one to haue money at need; the other to bind the cities and communalities more vnto their prince, yet we haue neuer seene more rebellions since the establishment of this realme. And as for the treasure, it hath been so well husbanded, as in lesse than

B twelue yeares that king *Henrie* the second raigned, hee did owe more than his predecessors had leuied fortie yeares before, for all charges: for by an account made in the yeare 1560, king *Francis* the second, succellor to *Henrie*, did owe two millions three hundred twelue thousand six hundred and ten liures, eighteen soulz six deniers, of money lent freely, for the which he paid no interest: and fiftene millions nine hundred twentie six thousand five hundred fiftie and five liures, 12 soulz and 8 deniers, for the which he paid interest: and he ought more for arrerages seuen hundred threescore and fiftene thousand, nine hundred threescore and nineteene liures, foure soulz, and foure deniers: besides the debt of *Ferrara*, and other debts for marriages, which came to eight millions five hundred and fourteen thousand five hundred fourescore and twelue liures, eighteen soulz and eleuen deniers: and other remainders due, to the summe of fiftene hundred threescore and foure thousand, seuen hundred fourescore and seuen liures, two soulz, and six deniers: so as by the last article the king remained indebted one and forty millions, a hundred fourescore three thousand, one hundred threescore and fiftene liures, three soulz, six deniers: comprehending fourteene millions nine hundred threescore and one thousand seuen hundred fourescore and seuen liures fiftene soulz and eight deniers, for the aides, reuenewes, and customes engaged, to cities, corporations, and colledges, and to priuat men: amōgst the which the citie of Paris hath had yerely three millions one hundred & so many thousand liures, comprehending the tenths: moreouer the clergie hath furnished about threescore millions in the time of king *Francis* 2., and *Charles* 9. Although the emperour *Charles* 5, and his successor haue run in the same fortune, for that they took vp at interest, being indebted about fifty millions, for the which

C all the lands, and reuenews of Naples and Milan were engaged to the Genewais and other priuate persons, who now are called in question, for that they had taken of the king of Spaine in his necessitie thirtie and fortie in the hundred; and to effect it, they haue caused the catholicke king to be censured by an admonition from the Pope, if he continued those excessiue vsuries; who embracing this occasion, defrauded his creditors of ten yeres interest. We must not think that the Spaniards will suffer themselves to bee easily gulled by the bankers of Italie, as the French do, who suffer them to inioy the farmes & al the best reuenews of France, the taxes, imposts, customes and doanne of Lion, by meanes of which farmes they ransome the subiects, and transport the coynes, contrary to the laws of this realme, which forbid to suffer strangers to enrich themselves by the reuenews of the crowne: nay, it hath been more insupportable to preferre them before naturall subiects, which offered much more, & yet they had an abatement of twentie thousand crownes at one instant out of the custome of Lion, to the perpetuall infamie of the French: and least they should be molested and drawn in question of

D

E

The debts of
king *Henrie* the
second.

The debts of
Spaine.

Means to assure
the estate of a
desperat prince.

theft, they haue gotten an euocation of all their causes to the priuie counsell. F
The originall of all these miseries growes from *Frauncis* the first, who began to
take vp money at intrest, hauing 1800000 crowns in his coffers, and peace with-
in his realme: no well aduised prince will euer take that course, for thereby hee
shall ruine the foundation of his treasure, if he will keepe his faith and pay; but
if he will not, or cannot pay, then must he breake and loose his credite, which
is the ruine of an estate: for he must borrow, leuie taxes, impositions, and in the
end by slaunders, and tyrannies forfeit his subiects goods. Then is it most fit and
necessarie for a prince to borrow money vpon interest of his allies and subiects,
if that hee bee in danger to loose his estate, by some generall reuolt, or the con-
spiracie of some great men against him; for extreame remedies are to be sought G
in extreamest dangers: as we read that *Eumenes* did, who borrowed a great sum
of money at extreame interest, of those that had conspired his death. *Agrippa*
king of Iudea, recovered his realme by the meanes of his creditors, who trou-
bled both heauen and earth for the assurance they had to bee payd: and this was
also the chiefe meanes to restore *Edward* the fourth king of England, being ex-
pelled his kingdome. But if the princes creditors haue assurance to bee paid by
his successors, or that they haue lands in pawne, then this course is vnprofitable.
I haue set downe the meanes which in my opinion are profitable and honest to
gather together treasure, the which is the first point of this chapter: the second
is how to employ the treasure of the Commonweale well and honourably, the H
which wee haue partly toucht in the chapter of rewards and punishments. Let
vs adde hereunto what remaines.

Means to em-
ploy the trea-
sure.

In old time the first article set downe in the expences of the treasure, was for
almes deeds; the second for the kings house; and the third for reparations; but
the order is quite changed. As for almes-deeds, the wise and antient princes
of the Hebrews, haue left this discipline to posteritie, the which they receiued
from the holy Prophets, who sayd, That the surest preservation and defence of
treasure, were Almes deeds, and liberalitie to the needie; the which they restrai-
ned to the tenth part of euerie mans goods, which should bee employed vpon
the ministers of the church and the poore. And if we will looke aduisedly in- I
to it, we shall not find any prince, state, or family that hath flourished more in ri-
ches, honours, and all happinesse, than those which had most care of the poore
and needie. In old time there were no princes vnder heauen more charitable
than our kings of Fraunce, since *Robert* sonne to *Hugh Capet*, who gaue the first
example to his subiects and successors to be charitable to the poore, feeding a
thousand daily, giuing them horses to follow the court, to blesse him and pray for
him; and to speake truly, there was neuer king in this realme that raigned lon-
ger and in greater peace. We may iustly say of our kings, that there is no race vn-
der heauen that hath so entertained the greatnes of their maiestie in armes and
laws, and out of the which there hath issued more princes, or that haue raigned K
longer without offence to all other princes, Christians, Turks, Tartars, Persians,
Indians, and Ethiopians. What prince euer was more charitable to the poore,
than *Lewis* the ninth, who hath founded twentie eight hospitals and colledges in
this realme; and had commonly in his traine six score poore folks, and in Lent
twelue score, feeding them with meat from his owne table? he also liued in great
honor, being feared of his enemies, reuerenced of his friends, honored of his
subiects: and after that he had raigned 44 yeres, he left siue sonnes, and foure
daughters, and a kingdome flourishing in armes and laws to his successor, recom-
mending

The charity of
the kings of
Fraunce to the
poore.

A mending vnto him aboue all things to be deuout to God, and charitable to the poore. Neither may we forget *James* the fift king of Scotland, who was called *Rex egentium*, The king of the needie; who as he exceeded all the princes of his time in bountie, so did he surmount all his predecessors in riches. And contrariwise we see great families, states, realmes, and empires come to pouertie and ruine, hauing contemned the poore, and abandoned the subiect to the spoile of the soldior, and the thefts of toll-gatherers: when as king *Henrie* the second in the yeare 1549, did exact that extraordinarie tribute which they called *Taillon*, he promised not to employ that money to any other vse, than to the entertainment of his men at armes, and not to confound it with the ordinarie receipts, that

B the subiect might be freed from the spoile of souldiers. The like was said when as the realme was charged with the paiement of 50000 footmen in the time of king *Frauncis* the first, the which should be leuied vpon walled townes and their suburbs, which felt nothing of the oppression of the souldier; but notwithstanding since they haue made it equall to towne, village, and hamlet, in the yere 1555, whereby the poore countreyman hath ben doubly oppressed, for they pay, and are spoiled of all sides. And yet withall these charges, they would hold themselves happy, if they might bee freed in providing corne and victuals for the souldiers at an vnder-rate, what may then bee hoped for in those cities whereas the souldiers robbe and spoile the poore subiects with all impuni-

C tie, and insult more ouer the citizens than against theemie? but for an excuse, they pretend they are not paid, neither would they be, to the end they might haue some colour for their thefts. There is no meanes to redresse these calamities, and to restore in some sort militarie discipline, which is now quite decayed; but in paying the souldiers: for as *Cassiodorus* laid, *Disciplinam seruare non potest ieiunus exercitus, dum quod deest semper presumit armatus*, A fasting armie can neuer obserue good discipline, for what they want, they will presume to take by force: the which cannot bee done vnlesse there bee a great care had of the treasure. The kings house therefore entertained, the souldiers and the officers payd, and due rewards giuen to them that deserue them, it is great reason the

D poore should be remembred. And if the treasure bee well furnished, a part would be employed to repaire townes, to fortifie vpon the frontiers, to furnish places of strength, make the passages euen, build bridges, fortifie the ports, send ships to sea, build publicke houses, beautifie temples, erect colledges for honor, vertue, and learning: for besides necessitie of reparations, it brings great profite to the Commonweale. For by this means arts and artificers are entertained, the poore people are ealed, the idle are set to worke, cities are beautified and diseases expelled: finally hatred against princes (which doth often times stirre vp the subiects to rebellion) is quite suppressed, when as the impositions which he hath leuied, redounds not only to the general, but also to every priuat mans good.

E And therefore the emperour *Alexander Seuerus* was accustomed to leaue many imposts and tolles to cities, to be employed in the necessarie reparations thereof.

This which I haue sayd is more expedient in an *Aristocratia*, or a Popular state, than in a Monarchie; for that the subiects being many, are with more difficultie maintained in peace and vnion by few commaunders: vnlesse the multitude being employed in the publicke works, may make some gaine, and not to inure them to the distribution of corne and money, as they vsually did in Popular states, and especially the Tarentins: the which is not only the ruine of the treasure, but likewise of the citie. So *Pericles* was also blamed, hauing

The souldior
must be payd to
preuent all
thefts and inso-
lencies.

The benefit of
reparations and
fortifications.

An infinit treasure in the citie of Athens.

Demosthenes in Olinthiacis.

Plut. in Pericle.

Idlenesse severely punished

A thousand millions of crowns.

first accustomed the Atheniens to these distributions: the which he did to gaine F the peoples fauor. But when he was once master of them; he employed the publicke treasure, not only to fortifie the citie, but also to beautifie it, and to fill it with good artificers: yet durst hee not attempt this before the citie was in peace and their treasure full, hauing then a hundred thousand tallents; that is to say, three-score millions of crownes, if we may beleue *Demosthenes*: which summe because it is vnreasonable, it may be, we should read a hundred tallents, which make threescore thousand pounds, for that wee shewed before, that the Athenians (when as they had charged their allies with great tributes) did neuer leuy aboue two thousand tallents yearly at the most, and in *Pericles* time they did scarce exact a thousand tallents. And being accused by his enemies to haue misemployed G the publicke treasure, hee made this resolute answer vnto the people, That if they were not well pleased with the walles, fortresses, and temples which hee built, hee would take the charge vpon himselfe, vpon condition, that his name should be grauen thereon, and that it was his gift: but the people allowed the charge, knowing well that all men in generall, and euerie man in particular, reaped profit and honour thereby, for that the marchant did gaine in furnishing of stufte; sea-men, and those that brought it, for their carriage; and artificers in working it; so as the profit was distributed to all sorts of people, and the glorie of their stately workes, gaue a perpetuall testimonie to posteritie of the greatness of this Commonweale. But the greatest benefit, and which doth most import H the preservation of an estate is, That the two greatest plagues of a Commonweale, Idlenesse and Pouertie, are banished: a verie necessarie thing in a popular and aristocraticall state; and especially in those countries, where they haue great spirits, and but barren soyle, as at Athens: if idlenesse get footing in such a countrey, it will neuer be without mutinies and thefts, which *Solon* foreseeing, he did inflict great punishments vpon idle persons: and so did *Amasis* king of Egypt, who condemned idle men to be put to death, if they had not wherewithall to liue, knowing the Egyptians to be the most ingenuous in the world, and the most subiect to mutinie, if they were not employed. We see *Piramides* built in that countrey almost three thousand yeares since, lest the pleople should haue I languished with idlenesse: we haue also presidents of the wisest emperours of Rome, which haue in like sort employed their treasure, & giuen the subiects example to imitate them: as *Augustus*, who did iustly vant, That he had found Rome built with bricke, but that he had left it built with marble: and in truth he employed foure millions and fise hundred thousand crownes in building of the Capitoll alone: he was followed by the emperour *Vespasian*, who made great and excellent workes throughout the whole empire, rather to entertaine the meanner sort, than for any other end: for when as an excellent workeman promised him to set vp pillars in the Capitoll, of an excessiue greatnes, with small charge and few labourers; he recompenced him verie well, saying, Let me I pray you, K nourish the poore: and yet he protested in open senate comming to the empire, That there was need of a milliart of crownes to free and restore that Commonweale.

What shall I say of the emperour *Claudius*, who enioying an assured peace, caused the chanell of Fucina to be made, to accommodate the citie with good waters, employing dayly thirtie thousand men for eleuen yeares together. And without search of antient histories, it is well knowne that the signiorie of Venice doth entertaine continuall in their Arsenall, three or foure thousand persons

A sons which get their living by the labour of their hands, the which doth much content the citisens, seeing the publicke treasure employed so charitably. But these employments are goodly and befitting a great prince which is not indebted, when the reuenues are not pawned, when as the Commonweale is in perfect peace, when the soldiers are paid, and rewards duly administred to euerie one: otherwise to increase the subsidies to build great pallaces, more stately than necessarie, being indebted, and to suffer the buildings of his predecessors to runne to ruine, thereby to purchase vaine glorie, that were to leaue a marke of his tyrannie, and a perpetuall testimonie to posteritie, that he hath built with the bloud of his subiects: and often times the subiects ruine the buildings of ty-

A tyrant builds with the bloud of his subiects.

B rants, to deface their memory from off the earth, wheras they shuld by vertuous and charitable actions, graue their names in heauen. The golden pallace of *Nero*, which comprehended a great part of Rome, was contemned by his successors, who would not vouchsafe to lodge in it, for the crueltie and villanie of him that had built it; and soone after it was ruined, as being made of spoiles, exactions and confiscations, the which follow a prodigall prince at the heeles: for of necessity, of a prodigall he must become an oppressor, and of an oppressor a tyrant.

There were neuer two tyrants more cruell and prodigall, than *Nero* and *Caligula*, for the first, in fifteen yeares that hee reigned, had giuen away the value of fiftie and five millions of crownes: and the last, in one yere had wasted three-

The strange prodigalltie of Nero and Caligula.

C score and seuen millions, so as hauing not wherewithall to defray his household charges, he was forced to beg the offerings in his owne person: then falling to prescriptions of priuate men, after that he had wasted the publick treasure, he filled all with cruell confiscations. This miserie of excessiue prodigalltie happens often to princes, through forgetfulnesse of the gifts which they haue bestowed, not well vnderstanding the botome of their treasures. And for this cause, it was wisely decreed by *Frauncis* the first, that euerie yere the generals of the treasure, should send vnto the treasurer, two briefes of the publicke reuenues of euerie prouince: the one by coniecture the first day of the yeare; the other a true note of the yeare that was past: and inlike case the treasurer should make two briefs of the whole treasure in generall, to the end that the king and his counsell might plainly know what money was in his coffers, thereby to gouerne his gifts, rewards, and expences: but most commonly hee that hath power to dispose of it, seeth nothing. I will put for an example an estimate of the treasure which was made in Ianuarie in the yere 1572, where in a chapter of the receit, there was an article set downe of 200000 pounds sterling of casuall things: and by a true account made in the end of the yeare, it was found, that they amounted to two hundred and fourescore thousand pounds sterling, and yet it was verified, that there was but fiftie thousand pounds employed to the kings profit. Such was the calamitie of those times when as children and women ruled. But in my o-

Articles of parties casuall in the yeare 1572.

E pinion, the king had done better, if he had seen the generall account of his reuenues, the which is contained in two sheets of paper, and withall had had a register of his gifts and rewards: or if his priue gifts be not inrolled, that he had a small briefe or remembrance of that which he had giuen, to whom, and wherefore: which are three chiefe points, whereof a prince must be verie carefull, to the end, that if he will be liberall, it should be to such as deserue it. And to this end, it were expedient the prince had a briefe register of affaires of state, and a rolle of the worthiest men of his realme, for there is no memorie so perfect, but may be confounded with the multiplicite of affaires, whereby he shall commit

A prince should haue a list of matters of state and of his chiefe men.

great incongruities in matters of state: for a briefe note of affaires shall put him F
in mind of that which he hath to do, and of all enterprises, the which oftentimes
remaine imperfect and ill executed through forgetfulnesse. There is no better
example hereof, than that of king *Lewis* the eleuenth, who was held one of the
most pollicke princes of his age, yet hee ran willingly into the snare of *Charles*
earle of Carolois, hauing forgotten that hee had sent his ambassadors into the
countrey of Liege, to stirre them to warre against him: the earle aduertised here-
of, detained him prisoner: the which had not happened, if he had kept a register
of his former actions. If any flatterers of the court will obiect, That the register
would be too great, that the prince should be too much troubled, and that hee
could not liue long: why then haue those princes and great monarchs which G
haue been so carefull of matters of state, and gouerned the whole world with
their lawes, liued so long? as *Augustus*, *Tiberius*, *Vespasian*, *Traian*, *Adrian*, and the
Antonines, all Romaine emperours and politicke gouernours, who themselues
made registers of their owne affaires, imitating the example of *Augustus*, who
liued 74 yeares, leauing three Bookes written with his owne hand; the first was
his deeds and publicke actions; the second was his testament; the third was an
estate of all the Romaine empire, wherein was contained a particular estate of
euerie prouince, what troupes of souldiers, what treasure, what armes, what
shipping, and what munition, with a diligence worthie of a great monarch:
yet for all this he did not omit to doe iustice ordinarily and to heare all commers, H
reading all the bookes of politike gouernment, that he could get, as *Suetonius*
saith, remembring that which *Demetrius* the Phalerien said vnto *Ptolome Phila-*
delph king of Egypt, that he should find goodly secrets in bookes, which no man
durst tell him. *Vespasian* in like sort, made an excellent abridgement of the em-
pire, and yet he liued 70 yeares.

The empire of Persia was greater than that of the Romaines, stretching from
the farthest bounds of India, vnto Hellespont, and the desert of Libia, hauing vn-
der it 127 Prouinces, and yet the kings of Persia carried with them continually
a register of their affaires of state and of their gifts: and when as *Darius Longue-*
main had escaped the conspirators hands, by the aduertisement which *Mardo-* I
cheus had giuen him, the king a while after reading this register by night, and fin-
ding that *Mardocheus* had receiued no reward for so great a seruice done vnto
the king, hee caused him to bee sent for, giuing him great honours and prefer-
ments. But without any further search, the king of Spaine doth vsually looke vp-
on a register of his affaires, carrying an abridgement of letters which he writes
to gouernors, captaines, and ambassadors, if the matter be not verie secret. For
the same cause *Charles* surnamed the wise, king of France, made a Register of his
priuie counsell, and the first was *Peter Barrier*, who was not busied (as at this
day) with expeditions and acts of iustice, but onely to inroll the affaires of state.
But aboue all it is necessarie for a prince to haue a register in his counsell, of gifts, K
offices, benefices, & exemptions: the which is most commonly in the hands of a
secretarie, and yet the hundred part of the gifts are not entred. For the redres-
sing whereof, there are two antient lawes, the one made by *Philip* of Valois, of
the which I haue formerly made mention, by the which the gift was reuoked, if
the donatarie made not mention of the benefits graunted to him and his
predecessors: the other is of *Charles* the eight, whereby all gifts aboue ten
pounds were of no force, if they were not verified in the chamber of accounts.
The first law was soone taken away by another, saying, That it was sufficient
by

The diligence
of Augustus.

Good lawes a-
brogated.

A by the Letters of gift, if it were derogated from the first decree. And as for the law made by *Charles* the eight, it is out of practise, vnder color of secret gifts and pensions, the which must not be knowne: so as the antient laws (decreeing, that the articles set downe in the chapter of expences, shall not bee allowed without an order, a commaundement, and a discharge) are now of little or no force in that respect: for the treasurer is discharged, bringing the kings hand onely, without any mention of him to whom the reward was giuen, nor wherefore. There was yet a law made by king *Frauncis* the first, and confirmed by his successor, wherby it was decreed, There should be foure keys to the place where the treasure was kept, whereof the king should haue one, and the rest should be in Commissioners hands appointed by him: and the distribution of money should bee made by the kings commaundement, in the presence of the treasurer and comptroller of the Exchequer: But king *Henrie* the second by a speciall edict discharged the treasurers and officers of the treasure, that afterwards they might not be called to any account. True it is, that one of these commissioners had giuen him at one time a hundred thousand crownes, if the common report were true; the which was much at that time, but little in regard of prodigalities practised of late. For after that king *Frauncis* the first had ordred it by (sparing, all the publike treasure lay open to the spoile of great men and flatterers. But an edict made in fraud should be no hindrance, but that such as had mannaged the publike treasure might bee called to an account; as it was required at a Parliament held at Orleans; and that excessiue gifts should be reuoked or at the least cut lesse: as the Emperour *Galba* did, who reuoked *Neroes* gifts, leauing but the tenth part to the donatorie; not that they should enquire too curiously of all gifts belowed by the prince, the which might prooue verie dangerous.

The reuocation of excessiue gifts is necessarie.

Charles the seuenth did limit by a law, what summe of money the king might take yearely to dispose of at his pleasure: which summe being verie little, seemed in those daies exceeding great. There is nothing more profitable for the prince, nor necessary for the subiects, than to haue the rewards which they giue, knowne and examined by their officers: for that princes shall alwaies maintaine their fauours, giuing liberally, and the officers shalbe subiect to the hatred and dislike of such as haue their gifts reuoked or cut lesse: so as by means of recouerie, the money should returne into the treasure againe, and few would beg, yea they would scarce take it when it should be offered them, if they knew their gifts shuld be reuoked or examined in the chamber of accounts. If bountie be commendable and worthie of a great and rich Monarch, it is ill befeeming a poore and needie prince, for he must flea his subiects, and racke them to the verie bones. King *Frauncis* the first, leauing a goodly kingdome, flourishing in armes and laws, and in all arts and sciences, to his successor, with seuenteen hundred thousand crowns in treasure, and the quarter of March readie to be receiued; yet did he not giue away the hundred part in rewards in 32 yeares that he had raigned, as his sonne *Henrie* did in two: for he had scarce closed his eyes, when as the confirmation of offices (which is due to the king at his first comming to the crowne) whereof an infinit masse of money was then made, was giuen to one horse-leech in court. And although that *Frauncis* the father gaue pensions to Germans, English, Italians, Suisses, Albaneses, Spaniards, and Grisons; yet all his pensions, besides the Cantons were but 13000 pounds sterling a yere at the most, as I haue seene by an extract out of the chamber of accounts, the which was made the yeare that hee dyed: and in the same extract there is but 42769 pounds,

Bounty not fit in a poore prince.

An infinit masse of money giuen to a woman.

The bounty of great King *Frauncis*.

four

four shillings starling, which hee gaue in pension to his subiects, princes of F
bloud, knights of the order, captaines in great numbers, lieutenants, councellors
of state, men of iustice, ambassadors, scollers studying, and many excellent work-
men, and learned personages. O noble prince, who could so well make choise
of worthy persons, and moderat his bountie.

Reſeruation of
treasure.

The treasure of
the Romaines
called *Sanctius*
acrarium.

We haue entreated of two points of this chapter: first how a Commonweale
should gather together, and then how they shall employ: the last point is, what
reſerue they shall make for any neceſſitie, that they be not forced to begin warre
by borrowing, or subsidies; whereof the Romanes were verie carefull: for al-
though they had continuall warres vntill *Augustus* time, after the defeat of
Marc Anthonie, yet had they neuer toucht the treasure which grew of the G
twentieth pence of ſlaues infranchiſed, vntill that *Hannibal* had reduced them
to extreame want; then was there found foure hundred and fiftie thousand
crownes in their treasurie, the which was one of the chiefeſt meanes to ſaue
their eſtate.

The Turks trea-
ſure.

The emperour of Turkie obſerues this order carefully, for beſides the trea-
ſury of ordinarie receipts, which is in the princes ſeraigle, there is another in the
caſtle of ſeuen towers at Conſtantinople, where the ancient treasure is reſerued,
the which they meddle not with, if the neceſſitie bee not verie vrgent. Our
Anceſtors were accuſtomed in time of neceſſitie, when the treasure was wa-
ſted to haue reſort to the kings forreſts, where there was an infinit number H
of tall timber-trees fit for all vſes, of the which they made great ſummes of mo-
ney; but during the ciuile warres, they are ſo cut downe, as hereafter they will
bee onely fit to make ſaggots: whereby the commonweale is much damnified,
and will be more dayly, vnleſſe there be ſome ſpeedie remedie: for there is
ſuch want of timber, as they ſhall bee forced to fetch it out of other countreys
for their ſhips and buildings; they do alſo cut them downe ſo haſtily, as the trees
cannot grow to beare any fruit to feed our ſwine; and in the end we ſhall be for-
ced to fetch wood from other parts for firing. And for that it hath been alwaies
held a matter of ſome difficultie to keepe treasure ſafely, beeing verie hard for
princes to ſhake off importune beggars: therefore the kings of Perſia and the I
Romaines, that they might preſerue this holy treasure from ſtelth, they reduced
a great part of their money into thicke brickeſ. It is alſo ſayd, that *Charles* the
ſixt king of Fraunce, had cauſed the great Hart in the pallace at Paris to be made
after the ſame forme that they ſhould caſt one all of gold, of the treasure which
he had gathered together. And the better to aſſure it againſt theeuſ, the anti-
ents did lay their treasure in temples, as the Greekes in the temple of *Apollo*,
Delphique, and *Deliaque*: the Romaines in the temple of *Saturne* and *Opis*:
the ancient Gaules in hallowed Lakes: the Hebrews ſometimes in temples,
ſometimes in ſepulchres: for wee read that the high prieſt and king of the
Iewes, *Hircannus*, found great treasures in *Dauids* ſepulchre. But ſeeing there K
are no ſepulchres ſo religious, no temples ſo holy, that theeuſ will not
force and enter: therefore the kings of *Morocco* hauing moulted a great
quantitie of gould in forme of a bowle, pierced through with a barre of
yron, they did hang it on the toppe of the pinnacle of the great Church
at *Marocco*. The ancient Egyptians fearing to giue occaſion to their neigh-
bours and enemies to inuade their eſtate, and make warre againſt them for
their treasure (as they did to king *Ezechias*, hauing ſhewed his treasures to
the ambassadors of the king of *Aſſiria*) employed it for the moſt part
in

The means how
to keepe trea-
ſure.

A in building of their Pyramides, beautifying of cities, bringing of riuers, and repaying the bankes of Nile. The law of God forbids to heape together much gould and siluer; lest thar thereby the prince should bee allured to oppresse his subiects, or the enemy to inuade the citisens; inuiting the prince thereby to bee charitable to the poore and needie: yet a meane is to bee vsed.

Deut. 17.

No man in my opinion will allow of the insatiable couetousnesse of *Iohn* 22 Pope of Rome, in whose coffers they found (hee being dead) twentie three millions of gold, as many haue written; or of *Sardanapalus*, who left fortie millions of crowns; or of *Cyrus*, who left fiftie millions; or of *Iberius Caesar*, who **B** had gathered together seuentie seuen millions, the which his successor wasted in one yere; or of *Darius Ochus* the last king of the Persians, in whose treasury *Alexander* the great found fourscore millions of gold. We read in the holy scripture that *Dauid* left sixscore millions, the which is the greatest treasure that was euer heard of: but there is some question touching the valuation of their tallent; for they write that he had gathered together a hundred thousand tallents of gold, and a thousand thousand tallents of siluer, which summe, if it bee accounted by tallents of Attica, although they be small it will seeme wonderfull: our interpreters of the Bible doe falsely thinke them Attike tallants. I find *Siclum* in the scriptures to be taken two waies, the which the Greeks call *Statera*, and the Latines **C** *Talentum*, one waie it is a pound of six ounces, as in the first booke of *Paralip* the 21 chapter; another way it is taken for halfe an ounce, as in the first booke of *Samuel*, the 24 chapter. If *Dauid's* treasure be numbered by the sicle or tallent of halfe an ounce, the summe will not seeme great; if it be referred to six ounces, it will comprehend fiftie thousand pound waight of gold, and ten times as much in siluer: but if it be valued by the Attike tallent, the wealth of the Romanes neuer came nere it; as we may see by an extract out of the treasury vnder the empire of *Traian*, at which time it was at the greatest; for the whole sum of their treasure (the which was kept in Egypt) came but to 74 thousand tallents, the which amounts to 44 millions, and foure hundred thousand crownes; vnlesse they had **D** another treasure at Rome, as it is likely, (although it appeare not by the extract) hauing 200000 foot, and 40000 horse in garrisons on the frontiers of the empire and in the prouinces entertained: three hundred Elephants for the warre, two thousand chariots for warre, and munition to arme 100000 men, fifteen hundred galleys of three and foue owers on a side, besides two thousand vessels for the sea, and furniture to arme and riggetwise as many, with fourescore great ships stately adorned.

22. Paralip. li. 2.
The greatest treasure that euer was.

The treasure of the Romanes.

But our kings of *Fraunce* haue not offended in this point against the lawes of God, by heaping vp of too great treasures, and it is not to be feared that they will hereafter breake it: for they which say, that king *Charles* the fift left in his treasure eighteen millions of crownes, are much deceiued, for he found the coffers empty, he paid his predecessors debts, he redeemed the reuenues of the crown, conquered *Guienne* from the English, purchased the countie of *Anxerre*, and a great part of the earledome of *Eureux*, restored *Henrie* king of *Castill* being expelled his realme, maintained and succored the kings of *Scotland*, against the kings of *England*, and reigned but 17. yeares, and yet he did not leuie for all charges about 43756 pounds sterling yerely, comprehending the reuenues of the crowne lands: although that in his time the ayds and custome of 8. shillings vpon euerie fire were laid vpon the subiects: and his successor fortie yeares after did

The reuenews
of Fraunce vn-
der Charles the
5, 6, 7, Lewis
the 12, and
Charles the 8.

Diminution of
halfe the charge
at the comming
of Charles 8.

The basenesse
of Lewis the
eleuenth in his
apparell.

Anno 1566. 20
Maie.

did leuie but 45000 pounds starling: and *Charles* the seuenth, the yeare that he F
died, receiued for all charges and reuenews, but 170000 pounds starling, as it ap-
peares plainly in the chamber of accounts, & yet had he imposed the tax in forme
of an ordinarie impost, the which at that time came but to 1800 pounds: and
twentie yeares after when as *Lewis* the eleuenth died, the whole receit came but
to 470000 pounds, the which was reduced to 120000 pounds, at the request of
the Parliament, held at Tours at the comming of *Charles* the 8 vnto the crowne,
besides the reuenews of the crowne which amounted yearly by estimation to
100000 pounds: so as the whole reuenews when as *Charles* the eight died, came
not to aboue 250000 pounds. The like request was made vnto king *Charles* the
ninth, by a parliament held at Orleans, at his comming to the crowne: but the G
necessitie was found so great as there was more need to augment than to dimi-
nish the the charge. Yet there was great hope to free the king out of debt, and to
take away the subsidies & extraordinary charges, (if the realme had not ben plung-
ed in ciuile warre) considering the good order was taken the first yeare: for the
interest was moderated to five in the hundred, all officers wages for that yeare
were diminished and halfe taken awaie, and the confirmation of offices graun-
ted them freely. And as for the expences, all was so well ordred, as by the ac-
counts of that yere, there came into the kings coffers 230577 pounds starling:
so as in few yeares all had been discharged, without any diminution of the kings
houshold seruants, the which were six hundred, besides such as were entertain- H
ned for hunting & hawking, for they may well be spared without deminution of
the maiestie of a king or the dignity of his house, by cutting off his ordinary traine
and houshold seruants, the which oftentimes doth cause strangers to contemne
him, and his subiects to rebell against him: as it chanced vnto *Lewis* the eleuenth,
who hauing put the nobilitie from him & discharged the gentlemen of his house,
vsed his taylor for an herald at armes, his barbar for an ambassador, and his Phi-
sition for chancellor, (as *Antiochus* king of Syria did his phisitian *Apolephanes*,
whom he made president of his counsell) & in mockerie of other kings, he ware
a greasie hat, and very course cloth in his apparell: and euen in the chamber of
accounts, there is set downe in a note of expences two shillings for a new paire I
of fleeces to an old dublet: and in another Item three halfe pence for a box of
grease to blacke his boots withall; and yet he raised the charges more than his
predecessor did by 300000 pounds starling a yeare, and sold much of the reue-
news: As for the officers of the crowne, it was wisely aduised at the estates of
Orleans, to reduce them to the antient number, as they were in the time of king
Lewis the twelfe, by suppression without any disbursement. But there were some
good husbands which gaue them afterwards to vnderstand, that the suppression
of offices was a decrease of parties casuall, wherby the number was afterwards
much augmented: And *Balley* president of the accounts told the king boldly and
plainly, being at *S. Maur des fosses*, that the suppression of those officers which had K
been created by the new law, was both pernicious to the publicke, and hurtfull
to his treasure; seeing but for three augmentations in the chamber of accounts
onely, they had payd aboue threescore thousand pounds starling: but he doth
not say that it is like vnto cold water which encreaseth the fit to him that hath
a burning Feuer: for it is well knowne that the king or people pay wages to
most of these officers after ten or twentie for the hundred, which was the prin-
cipall cause of the suppression of subalternall offices by a law made by *Fraun-
cis* the second. Moreouer they set not downe the prerogatiues which belong
to

A to the officers of the chamber of accompts, that is to say, their ordinarie wages, their rights of wood, their luerie at Easter, their rights at Hallontide, their roses, their prerogative of herings, their rights at Twelfetide, their rights of the stable of vertue, and of white salt, besides paper, parchment, pens, counters, purses, waxe candles, red waxe, penknives, bodkins, scrapers and strings: they did not shew also that the other profits of offices came to much more than their wages: they will not confesse that whereas there be now seauen chambers of accompts, there was then but one; and whereas now there be two hundred officers or thereabouts in the chamber of accompts at Paris, there was wont to be but one Treasurer of France President of the chamber, and foure masters of accompts that were Clarks, by an erection that was made at Viuiers in Brie in the yeare 1319, afterwards they added foure lay men, which sufficed for all that were accomptable: the kingdome of Navarre, and all the Lowcountries being then in the hands of the kings of France. And yet we have seen in our daies, that those which haue stollen the kings treasure and the subiects wealth, haue escaped, being indebted in great sommes of money; and infinit others which haue neuer accompted. And which is more, not long since an accomptant had gotten into his possession a great and notable somme of money, wherewith he stood charged by his accompt, who by collusion with a nobleman that should haue a third part, he obtained the rest by gift, and for his discharge, he produced the kings bil signed to the nobleman. So as to call accomptants to their duties, they must oftentimes depuie Commissioners with double charges, and the fault cannot be imputed to any other, but to those officers that are created to that end. And although that all treasurers, receiuers, comptrollers, and other accomptants should make a good and loyall accompt, and pay what remaines due; yet notwithstanding there is so great a number in this realme, as a third part of the receit is spent in gages, charges, vacations, riding voyages, and the conduct of money; as hath been well verified by the estates of the countrie of Languedock in the yeare 1556, where I was then present: who for that cause deputed *Martin Durant*, Syndic or Procurator of that countrie, to present a request vnto the king to be discharged of all officers of receit, making offer to bring all the money that was to be leuied vpon the subiect freely into the kings cofers, without any charge either for officers wages, or for carriage: shewing also particularly that the third part of the receipts went to officers, promising to deliuer vnto the king a full crowne, whereas hee did not receiue foure shillings, whereby he should saue 20000. pounds starling yearly in the two generalities of Languedoc, only for ordinarie charges: for then the charge of Languedoc came to threescore thousand pounds yearly. But since the officers of the finances or treasor are so increased, as *Maximinus Lullier*, Pronost of marchants at Paris, and President of the chamber of accompts, said in open Parliament at Blois, That of the crowne there came not eightene pence cleere into the kings cofers: the which seemes incredible, yet he was held a man most expert in accompts. We must then conclude, that the subiect was much oppressed by the polling of officers, seeing they made these offers: which we may not thinke new, for that in old times they had no other receiuers but the Viconts, Bayliffes, and Seneshals. That request made by the Syndic of Languedoc did much please king *Henry*, but it displeased the flatterers in court, and the officers of the accompts, so as it was reiected, for the frivolous difficulties they made which had interest therein, the which is not heere needfull to rehearse, so as it was concluded that receiuers and treasurers were necessarie. Seeing then that accomptants and masters of accompts is a necessarie euill (as *Alexander Seuerus* said) The fewer there are, the better shall it be for the Commonweale; for the kings treasure will still decrease when it passeth through the hands of so many officers. These were the complaints and exposu-

The right of the offices of the chamber of accomts.

Erection of the chamber of accomts.

An offer made by the estates of Languedoc, to king Henry the second.

lations which the estates of France made vnto king *Charles* the 6 in the yeare 1412, F
 for that he had fīue Treasurers, and that in old time there were but two: and that in like
 sort there were but three Iudges of the reuenues in the yeare 1372, and now there are
 almost three hundred within this realme. And in the yeare 1360 there was but one
 Receiuer generall, who did reside at Paris, & now there are 34, what would they now
 say to see so great a multitude. The Romans in old time had but one receiuer in euery
 Prouince: all customes and duties were let out to farme, and the farmers brought in
 their rents to the receiuer. The first office that was giuen to gentlemen of good fami-
 lies, and that aspired to greater dignities, was the office of *Questura*, or Receiuer for a
 yeare only, and without any comptroller to make triall of their diligence and loyaltie. G
 He that was found guiltie of extortion, was declared incapable neuer to beare any ho-
 norable charge, besides infamie and the losse of his goods, the which was a wise course
 to assure their treasure. But it is a strange thing and very absurd in this realme, to see so
 many men giue money to their maister to pick his purse. The Emperour of Turkie
 doth otherwise, for he neuer sels office, and for so great an Empire there are verie few
 Treasurers: the Collectors (which they call *Protogeres*) giue the money vnto the Su-
 bachis (which are as it were the Vicones of Normandie, who in old times had the
 same charge) then they deliuer it to the *Sangiacs* (who are as it were gouernors of the
 countie) who conuey it vnto the *Bellerbeis*, and they send in safety vnto the *Defrer-*
derlets, which are two generals of the Treasor, the one in Asia, and the other in Europe,
 who deliuer it to the great Comptroller, and he giues it to *Casmander Baschi*, great H
 maister of the treasor, who hath ten commanders or deputies vnder him for extraordi-
 narie payments, there is but one treasurer, and for all officers of accompts, there are but
 25 Comptrollers which examine the accompts. One thing is worthinie obseruation,
 that they haue no treasurers nor receiuers but Eunukes, after the Persian and old Gre-
 cian manner, and that wisely, for they that neither haue children, nor can be seduced
 with the flatteries and inticements of women, it is not to be feared that they will steale
 the publike treasor with the hazard of their liues and fame. As for Treasurers in France,
 it is more then necessarie that such offices be giuen to gentlemen of honor and of noble
 houses, as it was vsuall in old time, and is yet practised in England for the reason that I
 haue said. By an Edict made by king *Henry* the second in September in the yeare 1554 I
 it was decreed, that the chiefe Treasurers should take their places before the Stewards
 of the kings house, of the councellers of the court of Parliament, of the accompts and
 aides, if they be not in their assemblies: and by an Edict made by *Charles* the 9, he
 commaunds all vassals which hold directly of the king, to do homage and fealtie vnto
 the Treasurers of France, the which would much discontent an infinite number of
 Dukes, Earles, Barons, and great personages, who would not for any thing kneele
 before a base fellow that had bought his office. Thus much concerning treasure, and
 for that it consists in coyne of gold, siluer, copper and buillon, it is necessarie to write
 something thereof.

A meane to
make deceiuers
true and iust.

The order of the
receit in Turkie.

K

A

CHAP. III.

*Of Coines, and the meanes how to prevent that they be not altered,
nor falsified.*



Looking well into the best grounds, and strongest supports of a Commonwealth; in my opinion, hee must exactly vnderstand this point, that will wisely settle an estate, or reforme the abuses: for that there is nothing that doth more trouble and afflict the poore people, than to falsifie the Coines, and to alter the course thereof: for both rich, and poore, euerie one in particular, and all in generall, receive an infinit losse and prejudice, the which cannot precisely in euery point be described, it breeds so many inconueniences. The Coine may not be corrupted, no not altered, without great prejudice to the Commonwealth: for if money (which must rule the price of all things) be mutable and vncertaine, no man can make a true estate of what he hath, contracts and bargaines shall be vncertaine, charges, taxes, wages, pensions, rents, interests, and vacations shall be doubtfull, fines also and amercements limited by the lawes and customes shall be changeable and vncertaine: to conclude, the estate of the treasure and of many affaires both publike and private shall be in suspence: whereof the Edict made by *Gratidianus* the Tribune at Rome is a good argument,

B

who (contrarie to the opinion of his fellow Tribunes) set a certaine price of a kind of coine called *Victoriatum*, vpon a penaltie, whereby he purchased so great glorie to himselfe and his posteritie, as they did erect his statues in euery streete, and offered frankincense and waxe vnto them. And *Tully* saith, *Neminem unquam multitudinis ob id unum fuisse cariorem*, Neuer any man (for that cause only) was deerer to the people. The Prince may not make any false money, no more than he may kill or rob, neither can he alter the weight of his coine to the prejudice of his subiects, and much lesse of strangers, which treat with him, and traffick with his people, for that he is subiect to the law of nations, vnlesse he will lose the name and maiestie of a king, and be rearmed a counterfetter of money: as *Dante* the poet called *Philip le Bel*, for that he did first among

C

our princes corrupt the coine, and mingle copper with siluer, which was the cause of great troubles among his subiects, and a pernicious president to forraine Princes: whereof he repented himselfe too late, restoring the coine, and inioyning his sonne *Lewis Hutin* not to abate the goodnes of his coynes. And for this cause *Peter* the 4 king of Arragon did confiscate the estate of the king of Maiorque and Minorque, whom he pretended to be his vassall, for that he had abated the coine: and yet the kings of Arragon themselves did erre in that point, so as pope *Innocent* the 3 did forbid them as his vassals not to vse it: whereupon the kings of Arragon comming to the crowne doth sweare not to change the waight and price of their money, which hath been allowed. But it is not sufficient to make such protestations, vnlesse the value and waight of money be ordred as it ought, to the end that neither prince nor subiect may falsifie it if they would, the which they will alwayes do, hauing the meanes, what punishment soeuer be inflicted. The ground of all these counterfet coyners, washers, clippers, and boylers of money, growes by the mixtures which are made of mettals, for one metall being pure and simple cannot be supposed for another, differing by nature in colour, waight, substance, and sound. To prevent all these inconueniences, you must ordaine that in enery Commonwealth the coynes be of one metall without mixture, and publish the Edict of the Emperour *Tacitus*, who defended vpon losse of life and goods, to mingle gold with siluer, nor siluer with copper, nor copper with tinne or

D

lead.

E

Coynes should be simple without any mixture.

Dangerous to a
state to alter the
coine.

The prince can-
not alter his
coine.

Coynes should
be simple with-
out any mixture.

lead. But we may except from this law the mixture of copper with tinne, which makes the sounding mettall, whereof bells and ordinance are cast, not so much vsed in old times as now: for it is not necessarie to mixe the twentieth part of lead with pure tinne to make it more malliable, seeing it may be cast and put in worke without any such mixture, the which hurts the bountie of the tinne, and can neuer be drawne from the lead. This law must not only hold in coynes, but in all plate and works of gold or siluer, in the which falsehood and corruption is more ordinarie than in coynes, for that the triall is not so easie, and oftentimes the workmanship is as deere as the substance it selfe: wherein *Archimides* is much deceiued, seeking to find out what the goldsmith had stolne out of that great crowne of king *Hieron*, and not to deface the fashion, (for as then they had no vse of the touchstone) he tooke two lumps or masses one of gold, and another of siluer, putting either of them into a vessell full of water, and by the effusion of the water he iudged the proportion of the gold and siluer, then filling it againe with water, he put the crowne into it, the which cast forth lesse water then the masse of siluer, and more then that of gold, whereby he coniectured that the goldsmith had stolne a fift part: but his iudgement was vncertaine, for he supposed the mixture or allaie to be of pure siluer, when as the goldsmith to make the gold more firme, and to giue it the better luster, makes it most commonly of copper, being also of lesse charge, the which is much lighter then siluer, which makes the gold looke paler; and so by consequence copper hath a greater bodie then siluer in a masse of an equall waight, and differs as much as thirteene do from eleuen: and if the allaie or mixture were of copper and siluer, it was impossible to make a true iudgement, vnlesse he could distinguish how much there was of either; and although it were knowne, yet shall he erre insensibly in measuring the drops of water, through the difference of the masse and proportion of the mettals: there is no refiner nor goldsmith in the world so cunning that can precisely iudge by the touchstone how much siluer or copper is mixt with gold, if the allaie be not of one pure mettall. And although that goldsmiths and iewelers haue falsly complained that they cannot worke in gold vnder two and twentie Carrats without losse, or in fine gold about 23 Carrats and three quarters, according to the decree of king *Francis* the first published in the yeare 1511: yet notwithstanding all good orders they make worke at twentie, yea oftentimes at nineteene Carrats, so as in twentie foure marks there is five marks of copper or siluer, the which in time is made into base money by those which vse to counterfeit. It is therefore necessarie to obserue the same proportion and mixture in gold that is wrought, as in coynes vpon the like penalties, to the end that the vse of gold in plate and moueables may be pure. And for that it is impossible (as refiners say) to refine gold to 24 Carats, but there must be a litle of some other mettall with it; nor siluer at twelue deniers, but there must be some allaie, and euen the purest refining according to the lawes is of 23 Carrats and three quarters, and hath a fourth part of a Carrat of allaie, and of siluer eleuen deniers, two graines and three quarters, such are the royals of Spaine, or else eleuen deniers and eightene graines, as is the siluer at Paris, the which is of all others the best, for that it hath but a fortie sixt part of copper mixt with it. And in the best Spanish siluer there is a thirtie sixt part of copper, and without any great charge (besides the difficultie and length of time) they may worke gold in plate, or in coyne of 23 Carrats, and siluer of eleuen deniers twelue graines pure, without any allaie: for in so doing, the proportion of gold to siluer shall be equall, for the allaie shall be alike in the one and the other, that is to say, that in 24 pounds of siluer at eleuen deniers and twelue graines; and in 24 pounds of gold at 23 Carrats: there is a pound of other mettall in the gold which is not gold, and so likewise in the siluer which is not siluer, be it copper or any other mettall,

Archimides error
in triall of
mettals.

A mettall, and such siluer is called in this realme, the kings siluer, in the which the 24 part is copper, and by this meanes the coynes of gold and siluer shall be stronger, and more durable, whereby they get much in the working in the fier, and in sodring, and they keepe it from wasting and brittlenes.

And to the end the iust proportion of gold to siluer, obserued in al Europe & neighbour nations, (of twelue for one, or thereabouts) may bee also kept in the weight of money: it is needfull to coine money of gold and siluer of the same weight of sixteen, two and thirtie, and threescore and foure peeces to the Marke, without any alteration either in raising or abating; to auoid on the one side the difficultie of stamping it, and on the other side the brittlenesse of fine gold and siluer, if the coine were lighter than one denier. Whereas on the other side also, if they make any coine weighing aboute halfe an ounce, it is easily counterfeited, by reason of the thickenesse thereof: as we see in the Portugueses of gold, and the Dollers of siluer, which weigh aboute an ounce: as also that coine of three Markes and a halfe, which the emperour *Heliogabulus* caused to be made: and that which was coined with the stampe of Constantinople, weighing a marke of gold, whereof the emperour *Tiberius* presented fiftie to our king *Childeric*. By which meanes neither chaungers, nor marchants, nor goldsmiths, shall euer be able to deceiue the common people, which is ignorant of the bountie and weight: for they shall be alwayes forced to giue twelue peeces of siluer for one of gold; and every one of the peeces of siluer, shall weigh as much as the peece of gold of the same marke: as we see in the single Royals of Spaine, which weigh as much as the French Crowne, which are (according to the weight set downe in the yeare 1540) two deniers sixteene graines; and that twelue single are iust the value of a French Crowne. Why then may not all coynes of gold and siluer be equall in weight? and all of one weight of both mettals haue one stampe, or caracture? Why may there not be the same likenesse & proportion of both mettals? If this might be effected (as I hope it will) all meanes to falsifie money would be taken away. And to the end the simpler sort may not be abused in the chaunge of the said peeces, as well of gold, as of siluer; not to take the single for the double (as they do often times in Royals of Spayne, and in the new coine of king *Henry* the second) it is needfull that the stampes be diuers, and not alike as those of Spaine. And yet as touching siluer, to the end they shall hold the certaine titles of Soulz, pettie Denier, and Liure, as it is specified in the edict of king *Henry* the second, made in the yeare 1551; and by reason of the payment of rents, amercements, and the lords rights, according to the customes and ordinances; the Soulz shall be of three Deniers weight of the kings siluer (as it is said) and of sixtie three to the Marke: so foure shall be worth a Liure, as it hath gone heretofore, the which is the iustest price that can be giuen: and euery peece may be diuided into three, so as euery one shall weigh a Denier, and shall goe for foure small Deniers or Pence, and shall be called a common Denier, to the end the Soulz may alwayes be worth twelue Deniers: & that the complaints of the lords for their rents and rights, beeing vsually paid in blanch, or copper money, may cease, being now conuerted vnto Soulzes, such as they were in the time of Saint *Lewis*, that is, sixtie foure to a Marke of the kings siluer. And as for other growing out of annuities, purchased for money, the rent must be paid according to the value of the Soulz which it held at that time, when as the rent was purchased; the which was but foure Deniers an hundred yeares since, and is now but the third part of the auintient Soulz: the which it will be needfull to put in vse. Such was the Drachma, or Groat of siluer, vsed throughout all Greece, which was the eight part of the ounce, which wee call a Gros, and of the same weight with the Soulz which Saint *Lewis* caused to be coined, the which were called Gros Tournois, or of Tours, and Soulz Tournois: By the

which Soulz^F Tournois, or of Tours, all antient contracts are ordered, and many treaties not onely within the realme, but also among straungers: as in the treatie made betwixt the Bernois, and the three small Cantons of the Swissers, where it is said, That the Souldiors pay, should be a Soulz Tournois. The like was in this realme, and for that cause it was called Sold, and it was like vnto the pay of the Romans, as *Tacitus* said, and of the Grecians, as we read in *Pollux*. For the Drachma, or Groat, is of the same weight with the Soulz Tournois. The Venetians haue followed the antients, and haue made the ounce of eight Groats, or Drachmaes, and the Drachma of 24 Deniers, and the Denier of two Halfe pence, or twentie foure graines: as we vse in France, from which order we may not stray, as being most antient in all Greece, and the Orientall regions.

Drachma Attica
seven pence
starling.

True it is, that the antient Romans hauing their ounce equall with the Greeks, that is to say, of 576 graines, they diuided it into seven Deniers of their money, and their Denier was in value an Attique Drachma, or groat, & three seven parts more. Wherein *Buda* was deceived, saying, That there were eight Deniers in the ounce, and that the Romans Denier, or Peny, was equall with the Attique Drachma, and the Roman pound like vnto the Attique Myne; being most certaine that the Roman pound had but twelue ounces, and the Greeke Myne sixteene ounces, according to the marchants pound weight within this realme: the which *George Agricola* hath well obserued by the calcul of *Plinie*, *Appian*, *Suetonius*, and *Celsus*. But at this day it is straunge to see the great diuersitie of pounds and ounces in all nations, nay in one and the same kingdom ^H there are in a manner an infinit sort of pounds: whereof I will make mention of some few. An hundred weight at Paris, make 116 pound at Lion, at Rouan $96\frac{2}{3}$, at Thoulouse 121 pound, at Marseilles 123, at Geneva 89, at Venice $165\frac{1}{2}$, at Genoa 155, at Basil 98, at London $109\frac{1}{2}$. That of Paris and Strausbourg agrees, so do they of Basil, Nuremberg, and Francford, and they of Thoulouse, Mompellier, and Auignon, agree in the same pound weight: but they of Tours haue a lighter pound, for fiteene ounces at Paris makes sixteene at Touts. The like difference of weight is to be obserued in the East, and in Affrike, for 100 rowls at Theffsalonica, make 91 pounds at Paris: 100 rowls at Damasco, make 120 pounds at Paris, 100 rowles in Sitia, make at Paris 503 pounds and foureteene ounces: the like may be written of many others. But the lightest pound ^I weight of all, is that of Naples, for there an hundred pound weight, make but seuentie foure at Paris. But all this diuersitie of weight may easily bee reconciled in coynes, if they coine their peeces of gold and siluer of the same weight, the same name, and the same bountie, that is to say, that there be no more abatement in the gold, than in the siluer, whereby they can neither raise nor abate the price; as they do oftner than there are monethes, either at the peoples pleasure, or of those that haue authoritie and credit with princes, who borrow all the money they can, and then they raise the price of money: so as one hauing borrowed an hundred thousand crownes, raised it suddenly six pence in the crowne, whereby he gained two thousand and fise hundred pounds starling. Another abated the course of money in March, and raised it againe in Aprill, after ^K he had receiued the quarters rent. By this meanes also you shall cut off all falsifying and counterfeiting of coines, and the most ignorant shall know the bountie of the one and the other coine by the sight, the sound, and weight, without either fire or touchstone. For seeing that all nations for these two thousand yeares and more, haue alwaies kept, and still do keepe an equall proportion from gold to siluer, it will bee impossible either for the subiect or the prince, to raise, pull downe, or to alter, the prices of coines of gold or siluer, if base money bee banished the Commonweale, and gold set at 23 carats. And yet for that the smallest coines are profitable to the poorer sort, it is needfull to coyne

- A coyne a third kind of money of copper, without any other mixture, as they haue begun, and as it is practised in Spaine and Italie: or else diuide the marke of siluer in 15036 peeces, euerie peece weighing nine graines, that the poore may buy the smallest things therewith. For whereas the queene of England hath banished all base and copper money, and reduced all her coines to two kinds onely, the least peece of money, which is a peny, being in value about ten Deniers, shee takes from her subiects the meanes to buy any thing at a lesse price; and which is worst, they cannot giue lesse alms to a poore bodie, than of a peny, which holds many from giuing, as I haue shewed in the Paradox against *Malestroit*: the which the Chauncelour of England caused to be translated in the yeare 1569, hoping to redresse it. But it were farre more expedient, to haue no other coine but of gold and siluer, if it were possible to coyne any money lesse than the penie, and that they would diuide the Marke of siluer (as in Lorraine) into a thousand peeces, which they called *Andegauenses*: for that *Rene* duke of Aniou and of Lorraine caused them to be coined, two hundred whereof make but sixpence; and fortie, one Soule of our base money: and yet they are of reasonable fine siluer. But making it but halfe so little, it would be more firme, and of the same hieght that I haue spoken, and they may be cut and stamped at one instant. For the price of copper being vncertaine in all places, it is not fit to make money of, the which must alwayes be kept as certaine as may be: besides, there is no mettrall so subiect to rust, the which doth consume both the stampe and substance: and contrariwise neither gold nor siluer do euer rust. And
- C as for the price, we read, that during the Punike warres, the pound of siluer was worth eight hundred and fortie pound weight of copper, after twelue ounces to the pound; & then the Denier of pure siluer, which was but the seventh part of an ounce, was raised from ten pounds of copper to sixteene (as *Plinie* saith) which was after the rate of eight hundred ninetie six pounds of copper, for one pound weight of siluer, the pound weighing twelue ounces. Afterwards the least coine, which was a pound of copper, was halfe abated by the law *Papiria*, so as the price of copper was double that which it was before: and when as siluer came in great abundance, it was reduced to a fourth, remaining in the same value, which was 224 pound of copper for a pound of siluer: the which is neere the estimation of copper in this realme, whereas one hundred pounds,
- D at sixteene ounces to the pound, are worth but thirtie six shillings starling: and in Germanie it is better cheape, although their monables are thereof; yea in some places the churches are couered with copper: but in Italy it is deerer, and in Spaine and Affrike much more, for it is very scant there.

The French copy
saith 8000.

*Fest. lib. 17. in
verb. seferitius.*

Some one may obiekt, That the abundance of siluer may also cause an abatement of the price, as we read in *Titus Linius*, that by the treatie made betwixt the *Ætolians* and Romans, it was said, That the *Ætolians* should pay for ten pounds of siluer one pound of gold: and yet by a law made by *Constantine*, the pound of gold is esteemed at 41 pound $\frac{2}{3}$: for he would haue them pay five Soule of gold for one pound of siluer, making seuentie two Soule of gold in a pound; so as five Soule is iust the fourteenth part of a pound, and two fifts more: and now the price is twelue for one, or litle lesse.

E True it is, that heretofore the * Marke of pure gold was esteemed one hundred eightie five Liures; and the * Marke of siluer fiftene Liures fiftene Soule Tournois: so as for one Marke of pure gold vnwrought, they must haue eleuen Markes, five ounces, twentie three Deniers, and five graines, of the kings siluer vnwrought. Towards the North, where there are many mynes of siluer, and few of gold, gold is somewhat deerer. The pope of Rome more greedie of gold than of siluer, did value the Marke of gold at 12 Markes and foure fifts of siluer: the which is at this present the price of gold and siluer, and was almost two thousand five hundred yeares since. For wee read in *Herodotus*;

* 18. lib.
* 10. sh.
* 31. sh. 6. d.
starling.

that the pound of gold was valued at thitteene pounds of siluer: and the Hebrewes in their Pandects, set a Denier of gold for five and twentie of siluer, the coines of gold being double to them of siluer; which were twelue and a halfe for one. Wee read also, that in the time of the Persians, & when as the Commonweals of Greece did flourish, that an ounce of gold was worth a pound of siluer: for *Stater Doricus* of the weight of an ounce, was valued at a pound of siluer, as *Julius Pellux* saith. And in *Augustus* his time, the king of the Indians, had the same estimation of gold to siluer, the which was then brought to Rome: and therefore hee commended the iustice of the Romans; as wee read in *Plinie*. Whereby we may coniecture, that the price of these two mettals holds in a manner throughout all Europe, after the auntient estimation. But the value of gold was raised vnder the last emperours, by reason of the spoyle thereof which had bene made for the gilding of things: as *Nero* his great pallace all gilt, the which had galleries of one thousand paces long: and after him *Vespasian*, who imployed seuen millions and two hundred thousand crownes, to guild the Capitoll. And *Agrippa* couered all the temple Pantheon with copper, and then gilt it, to keepe it from rusting. And oftentimes siluer is gilt, although of it selfe it will neuer take rust. Doubtlesse we may well allow the holy ornaments to be of gold, for that the law commaunds it: but to haue vessels of gold, beds, bookes, yea and their bridles gilt, argues the madnesse of frantike men: the which if the prince doth not punish very seuerely, the price of gold must of necessitie rise: whereof our nation did vehemently complaine vnto the prince, at the estates held at Blois. Moreouer siluer hauing no hold, is little imployed to siluer withall: besides, the mynes of the North yeeld great store of siluer, & no gold: yet the alteration of price which is made, in proceesse of time is insensible, which can be no let but the valuation of coines made of these two mettals shall be equall in all states, banishing away all base money. Moreouer a generall traffique dispersed more now ouer the face of the whole earth than euer, cannot allow of any great alteration of gold and siluer, but by a common consent of all nations. But it is impossible to hold the price of things, retaining this base money, the which is altogether diuers and vnequall: for euen as the price of all things doth fall, as the value of money decreaseth, (as the law saith) so doth it rise in raising the price of mony. And it must rise & fall, for that there is no prince which holds the laws of mynting equall with other Commonweals, nor yet in his owne: for that the Aloy of the Soulez differs from that of the Teston, and of pettie Deniers Doubles, Lyards, & peeces of six, and thre blankes, the which continue not long in one estate. The first beginning in this realme to abase the siluer coine, and to mixe the 24 part of copper therewith, was to giue occasion to marchants to bring siluer into this realme, where there is none growing: for eleuen Deniers and a halfe in Fraunce, was as much as twelue Deniers in another countrey. But this deuise was needlesse, considering the great riches of Fraunce, the which they will alwaies fetch bringing gold and siluer from all parts. This mischiefe tooke deeper roote in the time of *Philip* the Faire, who did impaire the blanch money the one halfe, in the yeare 1300, adding as much copper vnto it, as there was siluer: a while after it was brought to a third, so as the new Soulez was worth but a third part of the auntient. And in the yeare 1322 the Aloie of Soulez was so weake, as the Marke of siluer was worth 80 * Liures Tournois, and had 1600 peeces for a Marke of copper. True it is, that in the same yeare that *Charles* the seuenth recouered his crowne which had bene taken from him, he caused a new coine to be made in the moneth of October, the which was strong and good, so as the Marke of siluer was set at eight * Liures: but in the yeare 1453, he caused Soulez to be coined of five Deniers of Aloie, and since they haue still decreased: so as king *Francis* the first, in the yeare 1540, caused some to bee coyned of three

A wonderfull
maffe to guild
the Capitoll,

* 8. lib. sterling.

* 16. shill.

- A** three Deniers of sixteene graines : king *Henry* at three Deniers and twelue graines : so as the annient Soulz of the kings siluer was worth almost foure : and king *Charles* the ninth brought it to three Deniers, the estimation still continuing alike : for that the price of the crowne did arise . And in the yeare 1577, vnder king *Henry* the third, they decrease almost halfe in weight, and a fourth part in goodnesse , from those of *Francis*. the first. Other princes haue done no better; for the Cruzter of Germany, which in old time was siluer at eleuen Deniers & foure graines, is now at foure Deniers and sixteene graines : the Soulz of Wirtzburg, and the Reichs groschem at six Deniers, that is halfe siluer, and halfe copper . The Schessind, the Rape, the Denier of Strausbourg, at foure Deniers and twelue graines : the Rapephening at foure Deniers three graines, and the
- B** Florines of siluer at eleuen Deniers foure graines : as also the peeces bee of five and of ten Cruzters, the Soulz of Flanders or Patars, whereof twentie are worth twentie and foure of ours , are but three Deniers and eighteene graines of Aloie , and more than two third parts is copper : the peece of foure Patars is at seuen deniers ten graines : the Brelingues of Gueldres, are at eight deniers, and the third is copper . In former times the Soulz, or Groat of England, was at ten deniers twentie two graines : and neuer did all this base coine continue aboue twentie or thirtie yeares at one rate or standard, or at the same weight ; and from thence growes the difference of the great Liure Tournois, of the lesse, and of the meane , the Liure or pound of Normandie, the Liure of Brittanie , and the Liure of Paris, the which are all different, as wee may yet see it in the
- C** taxes of the popes chamber . And in Spaine the Liure or pound of Barcellona, Toledo, Molorque ; In England the pound starling is worth ten of ours : And in Scotland there are two sorts of Pounds, the one starling, the other ordinarie . There is no prince in Italie, that hath not his Pound different from others : as in like case the Marke hath generally eight ounces : but the ounce of the Low countries is weaker by six graines than ours , and then that of Cologne by nine graines, that of Nuremberg six graines; and contrariwise that of Paris is stronger by an ounce . The Marke of Naples hath nine ounces, that of Salerne hath ten : and there is no towne almost in all Italie, but differs in his Marke, which makes the value of their coines so diuers, being so different in their weight & standard: the which troubles the poore people much, who loose greatly by exchange, and generally they which vnderstand not the poier , as they say, or the difference , as the Banquers speake : that is the value of money of exchange from one place to another . And therefore they say of a man that is well practised in affairs, That he vnderstands the poier, as a matter of hard conceit . For they haue made the matter of coines so obscure, by reason of their mixtures, as for the most part they vnderstand nothing therein . For euen as artisans, marchants, and euery one in his facultie , disguiseth oftentimes his worke : and as many Physitians speake Latine before women, vsing Greeke characters, and Arabike words, and Latine words abridged, yea some times they blot their paper that it may not be read, fearing that if their secrets were discouered, they should be little esteemed : so these Mynt-maisters, in stead of speaking plainly, and to
- E** say, that the Marke of gold of twelue parts, hath two of copper, or of some other metall, they say, It is gold of twentie carats : and in stead of saying , that a peece of three blankes is halfe copper, they say it is siluer of six deniers fine, two deniers of weight, and fiteene deniers of course, giuing to deniers and carats, the essence, qualitie, and quantity, of gold and siluer against nature . And in stead of saying, the Marke hath threescore peeces, they say, it is of five Soulz currant . Again they make some coines certaine or stable, some vncertaine and variable, and the third imaginarie, when as nothing can bee called firme in matters of coine , hauing so diminished the weight, and impaired the bountie of the gold and siluer . For the Ducat which goes currant at Venice, Rome,
- Naples;

A Liure is two
shillings starling

Naples, Palermo, and Melsina, is an imaginarie coyne; it was in old time the same pece of gold weighing an Angell, or else a Medin of Barbarie, or an Imperiall of Flanders, almost of the same weight and touch with the auntient Ducat, worth ten Carlins of siluer, and the Carlin ten Soulz of the countrey, at 46 peeces to the Marke of gold, and six to the ounce, the which they diuide into thirtie Tarijs, and the Tarih into twentie graines, the which is one grosse vpon the ounce, more than the common ounce, which hath but eight grosse. The law calleth this coine of gold *Solidus*, the which (as the Angell) hath fortie eight peeces for the marke, and seuentie two for the Roman pound at twelue ounces, the which hath long time bene currant; as it appeareth by the lawes among the Grecians, Germans, English, French, and Burguignons, and it is nothing els but our French Crowne of the Sunne. But our Mynt-maisters hauing not well vnderstood the word *Solidus*, haue within these fiftie yeares set the Sunne vpon it, tearming it erroneously *Aureum Solarem*: but the common people retaining their old speech, call it yet the Crowne Sold, of *Solidus*; the which in old time weighed four deniers, as the Angell. But since princes by little and little, and by graine and graine, haue brought it to three deniers, the which is the old Crowne. And in the time of king *Iohn* the old Crowne being diminished by little and little, as by the auntient Crowne Sold of three graines, they did coyne Crownes of two deniers and twentie graines weight, of the same standard with the auntient, the which they called Francs, on foot, and on horsebacke (for then they called all French men Francs, as yet in all the East all the nations of the West are called Franques) at which time the Crowne of Burgongne, which they call Ride, was also coyned of the same weight and goodnesse: the which haue continued vntill the time of *Charles* the eight, that the Franc Crowne was diminished six graines in weight, and three quarters of a Carat in finenesse: for the old Crownes were of twentie three and three quarters of a Carat; and the Crownes with the Crowne at twentie three Carats. Afterwards king *Francis* the first correcting somewhat the Crowne with a Crowne, caused the Crowne Sold to be coined at two deniers and sixteene graines, and of the same goodnesse with the other, hauing an eight part of Aloie put to it: the which continued vnto king *Henrie*, who added foure grains of weight vnto it: and by *Charles* the ninth it was diminished fve graines, in the yeare 1561. But the old Crownes, or Ducats of Venice, Genes, Florence, Sienna, Castile, Portugall, and Hongarie, haue kept twentie three Carats three quarters, and two deniers, and eightene graines of weight, vntill the yeare 1540, that the emperour *Charles* the fift impaired the fienesse of the Crownes of Spaine, of one Carat and three quarters, and three graines in weight, causing them to be coined at twentie two Carats, and two deniers fiteene graines of weight. The Crownes of Castile, Valencia, and Arragon, the which they call Pistolets, giuing an ill example to other princes to do the like: as the princes of Italie did, who haue caused some to be made at twentie two Carats and vnder, weighing two deniers and sixteene grains, as be the Crownes of Rome, Luques, Bologne, Salusses, Genes, Sienna, Sicile, Milan, Ancona, Mantoue, Ferrara, Florence, and the new Crownes of Venice. True it is, that Pope *Paul* the third, began to make Crownes to be coined in his name at twentie one Carats and a halfe, and two deniers, and foureteene graines of weight; and those of Auignon, which were made at the same time vnder the name of *Alexander Farneze* legat and the Popes nephew, are baser, and fve deniers lighter in weight; the which brings an infinit losse to the subiect, and benefit to counterfeit coyners, myntmen, and marchants, which draw the good money out of the countrey, and coine baser in another place. The which is more ordinarie in siluer coine of high value, and aboue eleuen deniers pure, as the Royals of Castile, which hold all eleuen deniers three graines of pure siluer: out of the which other princes heretofore

A tofore haue gained verie much : for being conuerted into French Testons out of ten thousand pounds starling, they did gaine six hundred and fiftie pounds, nothing impairing the goodnesse of the Teston of Fraunce, which holds ten deniers 17 grains of fine. And by the same meanes the Swissers which conuerted the testons of France into testons of Soleure, Lucerne, and Vnderuall, gained vpon euery marke one and fortie 4. sh. 2. d. 6b. soulz and eleuen deniers tournois : and for those of Lucerne, Soleure, and Vnderuall, were but of nine deniers and eightene graines, which is in the whole marke 23 graines of pure siluer lesse then those of France, the which were worth 25 soulz tournois. And as for the waight, those of France are at the least of 25 testons, and five eight parts of a teston to the marke, so as the testons of Soleure are lighter in waight three eight parts of a teston in the marke, the which was worth foure soulz three deniers tournois. And for that the testons of Soleure & Lucerne cannot be valued but for siluer of base aloye, the which they call Billon, being vnder ten deniers of fine siluer, after the estimation of Billon. foureteene liures seuentene soulz foure deniers tournois, the marke of pure siluer, and the testons of France for that they were aboue ten deniers of fine siluer were valued for siluer of high aloye, the which are worth after the same proportion fifteene liures thirteene soulz tournois, the marke of fine siluer ; and by reason of the difference of the bountie of the siluer the said testons were lesse then those of France 41 soulz eleuen deniers tournois in the marke, abating for euery peece of the said testons one soulz eleuen deniers. Those of Berne for that they were of nine deniers twentie graines of fine siluer for the marke were worth one denier tournois in euery peece more then those of Soleure, in gayning therefore but twelue pence vpon a marke it is a great gaine. The Flemings do the like, conuerting the testons of France in royalls of Flanders. Euery Prince hath prouided well by his lawes that neither gold nor siluer should be transported vnto strangers vpon grieuous punishments, but it is not possible to haue them well executed, but that much will be transported both by sea and land. And although none should be transported, yet the subiects should alwayes haue good means to melt, alter and falsifie both gold and siluer coyne, if there be diuersitie of standards; which growes either by licenses graunted to some goldsmiths, or done against the lawes; for they purse vp that which wants in the fines of the siluer which they worke, **D** as well for the abatement which is allowed them, as for the enamell and solder which they vse, mocking the lawes which are made vpon the price of the marke of gold and siluer, setting what price they please vpon their works, so as it is alwaies sold at a higher rate by the goldsmith then the lawes do allow, siluer by fortie and five soulz, and gold at twelue or thirteene liures vpon the marke, so as gold and siluer is bought dearer from the goldsmith and marchant, then from the mint-master, who cannot exceed the kings lawes, neither in buying of stufes nor in coyning. And as soone as the gold or siluer is coyned into money of better waight and goodnes then that of neighbor princes, presently it is molt by the refiners and goldsmiths to put into plate, or to haue it coyned by **E** strangers after their standard, wherein the changers serue as instruments, and vnder colour of furnishing the people with money, trafficke with the goldsmiths and marchant strangers : for it is certaine and hath been found true, that within these 25 yeares that the pettie soulz was decried, there hath been coyned in this realme aboue two millions five hundred thousand pounds starling, besides the peeces of three & sixe blanks, which are no more to be found, for that the refiners and goldsmiths found profit in them, so as they which haue great store of gold and siluer plate, can make more vse of it; for hauing bought it deere from the goldsmiths, they are loth to sell it with so great losse : and euen king *Charles* the 9 lost much, hauing exchanged his plate into coyne; whereas before the standard of money coyned was equall with that of the goldsmiths, 25. Millions of
liures. so as

so as they could lose nothing in plate but the fashion, the which continues yet as a pro-
 uerbe, It is siluer plate, there is nothing lost but the fashion. Therefore to preuent all
 these inconueniences, the standard of coyned money, and of works of gold and siluer,
 must be all one, that is of three and twentie Carats without any alaie or mixture, in
 gold; and eleuen deniers, and eleuen graines in siluer. They had found some meanes
 to reforme these abuses, letting out to farme the reuenues of the mint, and the confisca-
 tions and amercements that should grow by forfeitures, the which was let out in the
 yeare 1564 for five thousand pound sterling a yeare: yet it was abolished at Moulins in
 the yeare 1566, and the mints were farmed out to such as offred to coyne the greatest
 quantitie of marks of gold and siluer: by this meanes some branches were cut off, but
 the rootes of these abuses remained still, so as the fraud will neuer cease. The root of
 abuses is the confusion of three mettals, gold, siluer, and copper; which ceasing, neither
 shall the subiect nor the stranger be able to commit any fraud, but it shall bee soone dis-
 couered. But euen as copper and brasse money was not allowed in this realme, for that
 there was none coyned, so billon or mixture being forbidden, the strangers base money
 shall be also banished the realme: but so long as the Prince or Commonweale shall
 coyne base money, there is no hope that strangers subiects will euer cease to counter-
 fet in priuat, or to receiue all strange coynes. There is also another benefit both to the
 generall and particular, which growes (as I haue said) by the defence of the mixture of
 mettals, whereby they shall auoide hereafter the losse of siluer, the which is accounted
 for nothing in gold of 14 Carats and vpward, and is lost for the charges of the refining,
 the which is done by strong water: for they must haue sixe shillings sterling at the least,
 yea eight to deuide a marke, yet the losse is very great in a great somme, as all the
 florins of Germanie are but sixteene Carats, or sixteene and a halfe at the most, so as in
 a hundred thousand marks there are thirtie three thousand marks losse, and of foure-
 teene Carats forrie thousand marks and more. And besides that which I haue said, the
 abuses of officers of the mint shall cease in regard of the abatements, out of the which
 the officers were payed their wages; for the abolishing whereof, *Henry* the 2 king of
 France ordained, that they should be payed by the receiuers of the same places: which
 decree although it were holie and good, yet was it afterwards disanulled by king
Charles the 9, for that the chamber of accompts at Paris gaue the king to vnderstand
 that hee lost yearely aboute a thousand pounds sterling, whereas hee should reape
 profit by his mints; for now the officers were paid, and did in a manner nothing. But
 the true meanes to preuent all, is to suppress all the officers of mints, but only in one
 towne, where they should coyne all sorts of moneys, and to cause them to be payed
 by the receiuer of the place, the lords right remaining: the which notwithstanding the
 auntients did not know, and there was nothing deducted out of the money, no not
 the right of Brassage, as it were verie necessarie, or rather that a taxe were laied vpon
 the subiect for the coynage of money, thereby to take away the lords right, or any
 other duties, as they did in old time in Normandie, and at this day in Polonia, to pre-
 uent the notable losse which the subiects do suffer. By this meanes also the diuersitie of
 the price of the marke (which breedes a million of abuses) shall cease, and forraine
 coynes shall not be receiued but only to melt, without reckning of any thing for the
 lords rights, notwithstanding letters of permission obtained by neighbour Princes, to
 deliuer forth their money in his realme at the same rates as in their owne territories.
 And for the taking away of all occasions for the falsifying, altering, or changing the
 standard receiued for coynes of gold & siluer, it shall be needfull to haue all the money
 coyned in one citie only, whereas the iudges of the mint shall remaine, and to suppress
 all others (if the monarchie or Commonweale haue not so large limits, as of necessitie
 they

Billon.

Escharcetes, or
forblages.

- A they must haue more) in which place all the refiners shall worke, with a prohibition vpon paine of death not to refine in any other place, for from them come the great abuses, and to giue notice vnto the ordinarie iudges by preuention to punish all abuses that shall be committed; for it is well knowne what abuses there haue been in this realme in the coyning of money. It is therefore necessarie to imitate the Romans, who for all the subiects of Italie had the temple of *Iuno* only where they did coyne three sorts of money pure and simple, gold, siluer, and copper, and there had three maisters of the mint, who caused it to be refined and stampt publickly in view of all the world. And to the end that no man should be abused in the price of the coynes, there was also a place appointed where to take the essay or triall of money, at the request of *Marius Gratidianus*. We reade also that in this realme by a law made by *Charlemaigne*, it was forbidden to coine any money but in his Pallace, although his Empire stretched ouer all Germanie, Italie, and the greatest part of Spaine: but since that king *Philip* the faire, *Charles* his sonne, and king *Iohn* had established many mints in this realme, and many masters, prouost and other officers in euery mint, abuses haue also multiplied. But here some one may obiekt, that the Persians, Greeks and Romans did coyne money of pure gold, siluer and copper at the highest value that could be, and yet did they falsifie it, as we reade in *Demosthenes* oration against *Timocrates*. I answere, that it is impossible to purge the Commonweale cleane of these people, but for a thousand that are now you shall not then find ten, the value of gold and siluer being knowne to euery man as I haue declared. And if there be any prince so ill aduised as to alter the bountie of his money to gaine thereby, as *Marc Anthonie* did, who coined siluer that was very base, it will be soone reiected, besides the blame he shall receiue of all men, and the hazard of the rebellion of his subiects, the which was great at such time as *Philip* the faire imbasd the money. Whatsoever the reasons be, it is most certaine there were neuer fewer coyners of counterfet money than in the Romans time, when as they had no money either of gold or siluer but of a high standard; and therefore *Linus Drusus* the Tribune was blamed, for that he had presented a request vnto the people to haue an eight part of copper mingled with the siluer money, or as the mintmen say, they should coine money of ten deniers and twelue graines fine: which shewes that euen in those daies they would not admit any confusion or mixture of gold or siluer, and that their siluer was of the highest rate, as also their gold, as we may see in their medalles of gold, the which are of 23 carats and three quarters; and we find some marked with the Emperour *Vespasian*, where there wants but the 32 part of a Carat but it had been 24 Carats; the which is the purest and finest gold that can be seene. But it sufficeth for the reasons that I haue alledged, that the gold be of 23 Carats, and the siluer at eleuen Deniers and twelue graines pure. And let them not excuse themselves that they cannot command the fire, and therefore they demaund a fourth or an eight part of alai: the which is the cause of many abuses. Yet some may say that it is more expedient to coine doubles and deniers of baser siluer, to auoide the heauines of copper money. I say, that if it be allowed to coyne base money how small soeuer, that it will proue very preiudiciall, and will be practised in liards and soulzes. And although they did coyne nothing but Doubles and Deniers, yet should they alwayes open a gap for coyners to deceiue the common people for whom this money is made, in the which he hath no knowledge, neither doth he care to haue any, for the small value, without inquiring of the bountie thereof. I haue a letter of *James Armatel* written to king *Henry* the 2, in the which are these words: Sir, I thought good to aduertise you that within these sixe moneths they haue coyned in one of your mints, soulzes that are too base by foure shillings in waight vpon euery marke, and foure soulz in the goodnes of the mettall: when it shall please

your Maiestie I will shew you the worke, and I will acquaint you with the losse which you and your subiects do receiue, the which will grow greater if you preuent it not with all rigour. It was at that time that he coyned the peeces of fixe blanks, or three pence by the kings commandement, of foure deniers of siluer, and two deniers of copper, and foure deniers and foureteene graines of waight; the which was the best mixture of base money that was then in France, so in like sort they were soone molten, and few of them are now to be seene. Euery man knowes that the losse which the king and the subiect receiued of two shillings fixe pence vpon the marke, came to aboue fixe and twentie in the hundred, and yet the same *Pinatel* (hauing gotten vnder hand a commission from the generals of the mint, in the yeare 1552) caused Dobles and Deniers to be coined at Villeneuve of Auignon, and at Villefranche of Rouergue, which were valued but at twelue souls the marke; and that it was verified that by this meanes he had stolen little lesse than fortie thousand pounds sterling, and had purchased his pardon for fixe thousand pounds, the which he gaue vnto a Ladie, a favorite of the kings, who did only defer this wicked mans punishment, but not quite free him. I conclude therefore that we must not by any meanes allow of any mixtures, no not in the smallest coynes, if we will purge the Commonweale of all counterfet money. By this meanes also the damage shall cease which the poore receiue by the decrying of money, or deminution of the price thereof, after they haue made them baser; neither shall they haue any credit with princes which suggest vnto them the profit that they may receiue by their mints, as a certaine officer of the mint did, who gaue the counsell of the treasor to vnderstand, and did also write vnto king *Charles the 9*, That he might make a great profit of his mints for the ease of his people: and in truth by his computation it was found that euery marke of pure gold wrought would yeeld vnto the king sixteene shillings sterling, whereas he receiued but two shillings fixe pence, and foure deniers: and for the marke of siluer wrought the king should get foure shillings, whereas now he gained but sixteene deniers being wrought in testons. He aduised to coine money of the kings siluer of twelue souls tournois currant, and of thirtie peeces to the marke, of the waight of fixe deniers nine grains, the halfe and the quarters after the rate; and of gold coines of 24 Carat, and one Carat of alaie, of thirtie peeces to the marke, & of the same waight with the siluer of six liures tournois. He would also haue them coine small base money of three deniers of goodnes, and 320 to the marke, and of three deniers currant, and all other kind of billon or base money vnder ten deniers fine, rating the marke at foureteene * liures tournois. This was his aduice, but it was reiected as it deserued, for it is a very ridiculous thing to thinke that the king can draw so great a profit from his mints, and yet ease his people, if that be true which *Plato* saith, That no man gaines but another looseth: and the losse by an ineuitable necessitie fell vpon the subiect, seeing the stranger felt not of it. It is very necessarie that some great prince should mediate that by his ambassadors with other princes, to the end that all by a generall consent should forbid the coining of base money, setting the value of gold and siluer as it hath been formerlie said, and vsing the marke at eight gros or drachmas, and of 570 graines to the ounce, the which is the most common; and therefore should not be of any great difficultie, for that the Catholike King and Queene of England haue already banished all base money, and all the coines of gold in Spaine (except the Pistols, and the money of Portugall) are at the highest value, and their coines of siluer at eleuen deniers and three graines, the which is the highest that is. And it should be good to haue the money cast in forme of a medall, as the auncient Greeks, Latins, Hebrews, Persians and Ægyptians did, for the charge should be much lesse, the facilitie greater, and the roundnesse more perfect, to preuent all clippers, it

Billon.

* 28. sh. sterling.

should

A should not be subiect to bow and breake, and the marke would continue for euer, we should not be troubled with hammering, neither should there be any need of a cutter; of the cisers, or of any helpe at the waight, which falls not out so in that which is stampd; moreouer, they shall make more in one day than they can do now in a yeare. They should also take away all meanes from false coyners to mingle mettals so easily as they do with the presse and the stamp, whereas the peece stretcheth out in breadth which couers the thicknes, whereas the mould would make all medalls of the same mettall equall in bignes, waight, breadth and forme: whereas if a counterfetter would mixe copper with gold more than the allowance of 23 carats, the volume of copper which is in an equall waight twise as big and an eight part more, than that of gold, or twise and an eight part lighter than gold in an equall masse, would make the medall much greater, and discover the falsehood. For it is most certaine, that if a masse of gold equall to a masse of copper doth waigh 1550 ferlins, that of copper shall waigh but 729 ferlins, the which is as seauenteene to eight in a grosse waight; as I haue learned of *Francis de Foix* that great *Archimedes* of our age, who first discovered the true proportion of mettals in waight and quantitie. We will hold the same opinion of siluer; which hath a greater masse than gold in an equall waight, and that gold is heavier than siluer in an equall masse, once more and foure fve parts, which is 1551 in comparison of 998, or of nine to fve: and of copper to siluer, as of eleuen to thirteene, or precisely, as 729 to 998, which approach neerer in waight and substance than the rest, except lead, the which is heavier than siluer, and differs as fifteene to foureteene, or more precisely, as 998 to 929; but they can make no vse of it to counterfet, for that it flies from all other mettals but from tinne: and much lesse can they vse tinne, being a poison to all other mettals, and cannot be cast for siluer, for that it is lighter as much as nine is to thirteene, or precisely as 600 is to 929: and much lesse being disguised for gold, the which is heavier than tinne in an equall masse, or of a lesse volume in an equall waight, as much as is betwixt eighteene and seauen, or iustly betwixt 1551 and 600, the which is twise and two seauen parts heavier. As for yron, those that do counterfet can make no vse of it by melting, for that it will not be mixt neither with gold nor siluer; and the brasing of plates vpon iron is nor hard to discover. *Plinie* calles it *Ferruminatio*, and we, brazing or soldring, the which the counterfettors of his time did vse. The Seigneur of Villemor, Commissarie of the warres, did shew me an auntient medall of iron couered with siluer, yet the waight and the bignes doth easily discover the falsehood, if they looke narrowly into it, for that siluer is heavier than iron in an equall masse, or lesse in quantitie being of equall waight, as much as is from foure to three, or precisely from 998, to 634. And as for gold, it is impossible that this ferrumination and soldring can any thing auaille coyners, seeing that gold is lesse of bodie than iron in an equall waight, or more heauie in an equall masse, as much as is from sixe to nine, or of 1556 to 634. It is not to be feared that quicksiluer can falsifie these two mettals, although it approacheth as neere to gold in waight as three to foure, or 1558 to 1551, for that they haue not so great knowledge to fixe it, but it euaporates into smoke. And thus much as touching the forme of coyner, and the profit that shall come by casting, as it was in old time, and vntill their mines of gold and siluer were worne and spent, and these two mettals worne, lost, hidden, and disperfed, then were they forced to make their money so thin, as they could not marke them but with the hammer, the which hath since been the occasion of many abuses; but euen as the first man hauing little gold and siluer, stampd it with the hammer, and afterwards hauing greater store began to cast it, in like sort must we now returne to casting. They began to coine with a mill, but by prooffe it appeared that it did not marke well, and that there was al-

waies thirtie marks of clippings vpon a hundred marks of substance, whereas there is but one or two at the hammer, and the sound also did differ from that which was stamp: and which is more, the peeces were found not to be alwaies of one waight, for that the plates were sometimes drawne thinner of one side then of another. As for that which I haue said, that the marke of gold and siluer should be diuided into peeces equall of waight, without fraction of peeces vpon the marke, nor of deniers vpon the peece, nor of graines vpon the denier, the profit is very apparant, as well for the changes of marks of peeces, as for the value, waight, and vndoubted course: so did the auntients for the peece of gold or siluer waighing foure drachmas, the which is halfe an ounce, shall be equall to the sicle of the Hebrews, and the peece of two drachmas or of 32 to the marke shall be equall to the stater Atticus, to the old Philip, to the rose noble, and to the medalls of gold of the auntient Romans, which the law called Aureus: and the peece of one groat, sold tournois or drachma of 64 to the marke, shall be equall to the Attique drachma, and to the Zuza of the Hebrews, the which in Greece, and throughout all the East was a hirelings daies worke. True it is that the siluer pennie of the Romans was more in waight than three seuen patts, then a souldiers daies pay in *Augustus* time, the which is a little more then a single roiall of Spaine. And if the alterations and changes which are made sodenly be hurtfull and pernicious, they may proceed by litle and litle, causing money to be coined as I haue said. Vpon these difficulties (being deputed for the Prouince of Vermandois, at a Parliament held at Blois) I was called with the first President and three Generals of the mint, and *Marcel* Superintendent of the Treasure, to reparaire the abuses of money, and in the end all that I haue heere said was held to be very necessary, and yet the difficultie and diseases of the Commonweale which were incurable, would not at that time allow of it: which was as much to say, that it were better the sick should perish in languishing, than to cause him to drinke a troublesome potion to cure him. I confesse that siluer mixt will come but to a moitie, being purified to eleuen deniers, twelue graines; but it will continue for euer if the standard be once setled as I haue said, if it be not done the Commonweale must needs come to ruine.

Billon.

CHAP. IIII.

A Comparison of the three lawfull Commonweales, that is, a popular estate, an Aristocraticall, and a royall; and that a royall Monarchie is the best.



Ee haue hitherto in my opinion discoursed at large of all the parts of a Commonweale, it remaines for a conclusion to know the commodities and discommodities of euery kind of State, and then to make choise of the best, the which was necessarie to reserve vnto the end, after that we had discoursed both in generall & in particular of all the points of a Commonweale. Seeing then there are but three sorts of Commonweales; that is, when as the whole people, or the greatest part commaunds with absolute power, or else the least part of the citisens, or one alone; and that either of the three may be honest and commendable, or vicious, we must not only flie that which is most vicious, but also chuse the best. The tyrannie of one absolute prince is pernicious, & of many much worse: but there is no tyrannie so dangerous as that of a multitude; for so doth *Cicero* call

- A call it: yet is it not so bad as Anarchia, where there is no forme of a Commonweale, no man commands, and no man obeyes. Let vs therefore flie those that be vicious, and make choise of the best of these three lawfull governments: and to the end that all may be made plaine, I will set downe the commodities and discommodities of euery one apart. First, some one may say, that a popular estate is the most commendable, as that which seekes an equalitie and indifferencie in all lawes, without fauour or acception of persons, and which reduceth their ciuill constitutions to the lawes of nature: for euen as nature hath not distributed riches, estates and honors more to one than to another, so a popular estate tends to that end, to make all men equall, the which cannot be done, but by imparting riches, honors & iustice equally to all men without priuilege or prerogative whatsoeuer; as *Licurgus* did, hauing changed the royall estate into a popular, he burnt all obligations, banished gold and siluer, and diuided the lands by equall lots; then tooke he great pleasure to see the shocks of corne equall in the field, thereby cutting off couetousnes and arrogancie, two of the most pernicious plagues of a Commonwealth, and not only those, but he also banished rapine, theft, extortion, slanders, partialities and factions, which can haue no place when all are equall, and that one can haue no preheminence quer another. If then societie betwixt man and man cannot be maintained without friendship, and that the nurse of friendship is equalitie; seeing there is no equalitie but in a popular state, of necessitie that forme of Commonwealth must be the best: in the which a naturall libertie and iustice is equally distributed to all men
- C without feare of tyranie, crueltie, or exaction; and the sweetnes of a sociable life seemes to draw men to the felicitie which nature hath taught vs. There is one point that seems very considerable, to shew that a popular estate is the goodliest, the most excellent, and the most perfect, which is, That in a Democracy there haue alwaies been greater commanders in armes, and worthier men in lawes, greater orators, philosophers and handicrafts men than in the other two estates: whereas the faction of few great men among themselves, and the ieaousie of a Monarke keeps the subiects from all noble attempts. And it seemes that the true marke of a Commonwealth consists in a popular estate only, in the which the whole people inioyes the publick, diuiding the common treasure amongst them, with the spoiles, rewards, honors and conquests, whereas few noblemen in Aristocratia, and one in a Monarchie seeme to conuert all the publicke good to their owne priuate commodities. To conclude, if there be nothing more to be desired than to haue the magistrates obediēt to the lawes, and the subiects to the magistrates, it seemes it is best obserued in a popular state, whereas the law alone is ladie and mistres ouer all. These reasons are produced by popular men to maintaine a popular estate; they haue a goodly shew, but in effect they are like vnto spiders webs, the which are very subtil and fine, but haue no great force: for first of all, there was neuer Commonwealth where this equalitie of goods and honors was obserued, as we haue shewed before concerning goods; and as for honors, they should do therein contrarie to the law of nature, which hath made some more iudicious and more ingenious than others, and by consequence hath ordained some to gouerne, and others to obey; some she hath made wise and discreet, others foolish and mad; to some she hath giuen excellencie of wit to gouerne and command, to others force of bodie to execute their commandements. And as for the naturall libertie they so much preach of in a popular estate, if that were of force, there should neither be magistrates, lawes, nor any forme of state whatsoeuer: else there should be no equalitie: and yet there is no forme of Commonwealth which hath so many lawes, so many magistrates, nor so many comptrollers as a popular estate. And as for the publick reuenues and treasor, it is most certaine that there is no Commonwealth where it is worse gouerned than by the people, as we haue

Reasons for a Popular estate.

Reasons against a Popular estate.

declared elsewhere. Whereof amongst many others, *Xenophon* is a worthy witnesse: **F**
 I cannot (said he) allow of the Athenians estate, for that they haue followed that forme
 of Commonweale, whereas the wicked are alwayes in greatest credit, and men of ho-
 nour and vertue troden vnder foot. If *Xenophon* (who was one of the greatest cap-
 taines of his age, and who then carried away the prize to haue happely ioyned the
 manning of affaires with armes and Philosophie) hath giuen such a censure of his
 Commonweale, which was the most popular, and amongst the popular the most esteem-
 ed, and best ordered; or to speake more properly, the least vicious (as *Plutarch* saith);
 What iudgement would he haue giuen of other Democracies, and Ochlocraties?
 Wherein *Machiavel* is much deceiued, to say, That a Popular estate is the best: and
 yet forgetting his first opinion, in another place hee said, That the onely meanes to re- **G**
 store Italie to her libertie, is to haue one prince, labouring to frame the most Tyranni-
 call estate in the world. And in another place he confesseth, That the estate of Venice
 is the goodliest of all, the which is more Aristocraticall: so as no man can iudge what
 this wicked and inconstant man meanes. If we shall beleue *Plato*, wee shall find that
 he hath blamed a Popular estate, teaching it, A Faire where euery thing is to bee sold.
 We haue the like opinion of *Aristotle*, saying, That neither Popular nor Aristocra-
 ticall estate is good, vsing the authoritie of *Homer*, *οὐκ ἀγαθὸν πολυκοιρανίη*. And the
 Orator *Maximus Tirius* holds, That a Democracy is pernicious, blaming for this cause
 the estate of the Athenians, Syracusians, Carthagineans and Ephesians: for it is impos-
 sible (saith *Seneca*) that he shall please the people, that honours vertue. And therefore **H**
Phocion (one of the wisest, and most vertuous men that euer was) was alwaies opposit
 to the people of Athens, and the people to him: and as on a certaine day the Athenians
 allowed of his counsell, he turned to his companions, saying, *Quid malū mihi accidit, ut*
populi sensus cum meis congruerent, What ill haue I done, that the people concur with
 me in opinion? And how can a multitude, that is to say, a Beast with many heads, with-
 out iugemēt, or reason, giue any good counsell? To aske counsell of a multitude (as they
 did in oldtimes in Popular Commonweales) is to seeke for wisdom of a mad man. The
 which *Anacharsis* seeing, & that the magistrats and anients deliuered their opinions in
 open assembly, and then the people concluded; he said, That in Athens wise men pro-
 pounded, and fooles disposed. And admit one might draw a good resolution from a **I**
 multitude, who is he so sencelesse, that would thinke it fit to publish a matter of state in
 an open assembly? Is it not to prophane holy things? and yet holy things beeing pro-
 phaned, may be purified: but a secret concerning affaires of estate, being once published
 and spread abroad, there can nothing be expected but preiudice and dishonour to the
 Commonweale. And for this cause especially the Commonweale of Athens, of Sira-
 cusa, and of Florence, haue bene ruined. I omit the difficultie to assemble the people in
 one place, the disorder that is in a multitude, the varietie and inconstancie of people ga-
 thered together of all sorts: and yet (if it please not the magistrat) neither shall Senat
 nor people be assembled: as it happened in *Cæsars* Consulship, who to preuaile in his
 attempts (hauing terrified *Bibulus* his companion, and drawne his sword vpon him) he **K**
 would not suffer the Senat to be assembled so long as his office continued. And if the
 Tribune were vnited with the Consull, neither there the Senat nor the people could be
 assembled: so as the authoritie of the Senat, and the soueraigne maiestie, was by this
 meanes subiect vnto six or seuen: whereby the state was brought into great danger, in
 not resolving speedily in vrgent affaires. For by the lawes of *Solon*, and of the twelue
 tables, the people must bee assembeld three times, before they should allow of any law
 that was published. Oftentimes it chaunced, that the flying of a bird on the right hand,
 or the crying of a rat, or the falling sicknesse (it may be of some drunken man) hindred
 the

A Popular e-
state condemned
of many great
men.

- A the assembly; or at the least protestation of some stamering sooth-sayer, or the opposition of a magistrat, all was dissolued. Whereof *Cicero* and *Cato* himselfe complained verie much, for the power and fauour of competitors (which were alwaies many in number) to haue offices, and being enemies one to another, hindred the assembly of the people, or troubled it being assembled; and the magistrats which were in office supported them, to continue their power: so as sometimes a whole yeare was spent without the creation of a new magistrat: as it happened when as *Pompey* the Great was chosen Consull alone. And therefore the Grisons, who maintaine a Popular estate, assemble the people but euery two yeares at Coire, for the creating of new magistrats, and the making of new lawes. For there is nothing more dangerous, nor more contrarie to a Popular estate, than to continue magistrats long in their office. What is more absurd, than to allow of the rashnesse of a light and inconstant multitude for a law, who in discerning and giuing of honours, are commonly carried away with a blind and inconsiderat violence, rather than with any settled iudgement? What is more foolish, than in the greatest extremities of a Commonweale, to seeke counsell from a mad multitude? for the magistrat can do nothing without commaund, and if they might they would not; neither dare they, being terrified with the peoples furie, who impute all mischaunces, and their owne errors, vnto the magistrats. So as *Philip* the first, king of Macedon, hauing inuaded and spoyled the confines of Attica, there was not any magistrat that durst assemble the estates, the people came to the place of assemblies vncalled, whereas they found no man that durst speake vnto them, as *Demosthenes* writeth. The like happened at Florence, when as the emperours armie approached to besiege them, at the instance of pope *Clement* the seuenth, al the people were so amazed, as they knew not what to resolu: For by the lawes of Florence, all the citisens should assemble before the Towne house, to resolu vpon the articles propounded by the chiefe magistrat, and then they were quite daunted. It is the weaknesse of a multitude (saith *Titus Linius*) to waxe proud, and to insult with all licentiousnesse in prosperitie, and to be delected and amazed with any aduersitie. And how is it possible that the soueraigne maiestie of an estate shall be maintained by a multitude, guided by a magistrat, who oftentimes must keepe them in awe by seueritie, *Et in qua regenda plus pœna, quam obsequium valet* (saith *Titus Linius*) In the gouernment whereof punishment more than obedience preuailes. So *Phocion*, seeing that the Athenians would not giue him audience, he cried out, *O fustuarium Corcyraeum, quous talento pretio sis*, O scourge of *Corfu*, more pretious than any talent: Which shewes the maiestie doth perish and decay in a multitude, whereon the chiefe ground of a Commonweale consists. But passing on, all men that haue written of estates, do hold, That the chiefe end of all Commonweales, is to flourish in pietie, iustice, valour, honour, and vertue; by the which humane society is preferued. But a Popular estate hath bene alwaies opposit, and an enemy to all good men. For the preferuation of a Popular estate (if we shall beleue *Xenophon*) is to aduance the most vicious and vnworthy men to offices and dignities. And if the people should be so ill aduised, as to giue offices of honour vnto vertuous men, they loose their power: for that good men would fauour none but the good, which are alwayes fewer in number: and the wicked and vicious (which is the greatest part of the people) should be excluded from all honour, and by little and little banished: so as in the end wise men should seize vpon the estate, and take that from the people. The Athenians therefore (saith *Xenophon*) gaue audience to the most wicked, knowing well, that they would speake pleasing things, and profitable to the vicious, as most of the people be. I cannot (saith *Xenophon*) but blame the Athenians, to haue chosen the most vicious forme of a Commonweale: but hauing chosen it, I doe much esteeme them they doe so

The Grisons assembled euery two yeares.

A multitude is amazed in danger.

A multitude cannot maintaine a maiestie.

The end of Popular estates, is to banish vertue.

Xenophon giues a true iudgement of a Popular estate.

carefully maintaine it, in reiecting, chasing away, and banishing the noble, wise, and vertuous; & aduancing the impudent, wicked, & vicious: for the which vice thou so much blamest (saith he) is the preservation of a Popular estate. And as for iustice, the people (saith hee) haue no regard of it, so as they may get profit by their iudgements, which they sell to them that will giue most, seeking by all meanes to ruine the rich, the noble, and the vertuous, whome they torment continually, for the capitall hatred they beare against all good men, being contrarie to their naturall dispositions. And therefore a Popular state is the sinke and refuge of all turbulent spirits, mutines, seditions, and banished men, which giue counsell, comfort, and aid, vnto the people to ruine great men: For as for the lawes they haue no respect of them, for that in Athens the peoples will is a law. This is *Xenophons* opinion, touching the Commonweale of Athens, who saith, it was the best ordered of all the Popular Commonweals in his time: neither would he haue them to change any thing to maintain the people in their greaues. The like censure *Marcellus* the lawyer hath of a strumpet, saying, That shee hath not well done to haue abandoned her honour; but hauing lost all modestie, it was not ill done, to get what she could by her trade. So *Xenophon* concludes, That a Popular estate is nothing worth, but to maintaine it so being once settled, they must banish all honor and vertue: that is to say, the greatest tyranny is not so dangerous, as a Popular estate thus gouerned.

Impunitie of
vice in a Popu-
lar estate.

But there is yet one plague more capitall in Popular estates, the which is, Impunitie to the wicked, so as they be citisens, that is to say, pettie kings: and euen in the Popular estate of Rome, it was forbidden to all magistrats vpon paine of death, To condemne to death, or to banish any citisen, nor to depriue him of his libertie or priuilege of a citisen, nor to whip him with rods. For it is a settled law almost in all Popular estates, *Ne cuius quisquam quantumcunque scelus siue in deos, siue in homines admiserit, capite seruetur*, That no citisen should die the death, what offence soeuer he had committed either against the gods, or men. Therefore *Verres* (omitting the rest) being accused and condemned of theft, and of a hundred thousand concussions, extortions, and false iudgements; was thought to be seuerely punished, for that hee was enioyned to depart out of Rome: and why, for that Popular states would haue their libertie defended with the lenitie of lawes, and not with the sharpnesse of punishments. And yet they banished *Rutilius*, *Metellus*, *Coriolanus*, the two *Scipions*, brethren, and *Tully*: as in Ephesus they banished the vertuous *Hermodorus*: in Athens they expelled *Aristides* the iust, *The-mistocles* died in exile, *Miltiodes* in prison, *Socrates* by poyson. And although that *Phocion* the most iust and vertuous man of his age, had bene chosen Generall fortie and sue times, without any reproach or blame, yet (without any accusation or information against him or his companions) a base pleader, of the scumme of the people, steps vp before the multitude, and demaunds, If they would haue *Phocion* and his companions put to death: wherewith all in generall did arise vp, and holding vp their hands, condemned him, not excluding any slaue, woman, nor straunger from this condemnation, for the which many ware garlands of flowers. Which *Phocion* hearing, said, *Me quidam a vobis damnari facile patior: sed cur isti?* For my part, I am contented to bee condemned by you: but why these men? To whome the people being mad, aunswere, *Quoniam tibi sunt amici*. Neither was the furie of this mad people pacified, vntill they were all without sentence, accusation, or cause, put to death. Neither is there any hope, if a multitude begin once to insult ouer the good, that either shame or reason shal reclaime them from their furie and madnesse. Yet notwithstanding the wicked do commonly escape the peoples hands: which *Demosthenes* seeing, and that they had absolved *Antipaphon*, a most capitall offender, he proceeded, and caused him to be condemned,

The most vertu-
ous are banished,
and the wicked
escape, in a Po-
pular estate.

A ned, and afterwards put to death by a decree of the Areopagits; little regarding the people, for the which he was not blamed. Whereby it appeares, that there was neither iustice nor maiestie in a Popular estate. And as in a Popular Commonweale thus gouerned, all offices are sold to them that will giue most, so the magistrats sell by retaile that which they haue bought in grosse. And euen *Marius* durst carrie bushels of siluer into the assemblies at Rome, to purchase the peoples voices: the like wee read of *Pompey*. It is no matuell then if we read of infinit corruptions and concussions in Rome: but it was more fowle and odious in Athens, whereas when *Stratocles* and *Damocles* entred into their offices, they did openly brag, That they went to a golden haruest. If offices, lawes, iustice, and honours, were so vnworthily sold in these great Commonweales, being enriched with the spoyles of other people; what shall we iudge of Popular estates oppressed with want and need? Wee haue the example of the Megarences, who hauing expelled their prince *Theagines*, established a Popular estate so licentious, as it was lawfull for the poore to goe and spoyle the rich, as it is in *Plato*. Euen so wee read, that the Swissers did long after they had expelled the nobilitie. If they would haue any one spoyled by the multitude, they did set the picture of a man with boughes vnder him at his doore, and then was he presently stript of all that he had, were he the richest or most innocent citisen. And they which doe so highly commend the Popular estate of the Romans, should rather haue extolled the worthy deeds of noble and valiant men, than the cities forme: they should set before their eyes the seditions and ciuill warres, wherewith that citie had bene shaken, and represent the people of the one side of a mountaine, and the nobilitie of another, diuided three times; and many times the furious Tribunes with their turbulent Orations, to threaten death or banishment to the best citizens: Sometime *Saturnine* the Tribune, with a rabble of rascals, slaues, and artisans, armed with stauers and stones, to come into the open assembly of the people, and to expell the honeste partie, and kill him that was chosen Consull by the peoples suffrages. The which the Tribunes alone did not, being enraged against the Consuls, but euen the Consuls among themselves. How many murders of citizens haue bene scene in the midst of the citie, in the field of *Mars*, in the court, in the temples of their gods, yea in *Iupiters* capitoll, *Tiberius* and *Caius Gracchus*, *Drusus*, *Saturninus*, and *Sulpitius*, were cruelly slaine: when as the Consull *Cassius* made a proclamation, That all the Latines, and Heniques, which had no houses within Rome, should depart the citie. *Virginus* his companion made a decree to the contrarie, not so much to crosse his companions authoritie, but to set the citizens and straungers together by the eares in the midst of the citie. What was more vnworthy, or more contrarie to ciuill societie, than to see a citisen vnder an innocent gowne, to come armed to the assembly, to sue for offices, as if they went to warre, and oftentimes the contrarie factions fell to blowes. And *Tully* saith, *Lapidationes in foro saepe vidimus, non saepe sed tamen nimis saepe gladios*. We haue oftentimes scene stones cast in the assembly of the estates, and swords drawne, not so often, but yet too often. And a little after, *Meministis (inquit) corporibus ciuium Tiberim compleri: cloacas refarciri, e foro spongijs effundi sanguinem*, You remember (saide he) that the riuer of Tiber hath bene filled with the bodies of citizens, that the common priues haue bene stuffed full, and the blood sucked vp in the market place with sponges. To conclude, if we shall rip vp all the Popular estates that euer were, we shall find, that either they haue had warre alwayes with the enemy, or with in the lare: or else that they haue bene gouerned in shew by the people; but in effect by some of the citizens, or by the wisest among them, who held the place of a prince and monarch. Whilest that the Commonweale of Athens did flourish, it was gouerned by the Senat of the Areopagits: and when as their power and authoritie was restrained,

Popular estates
exceed in all li-
centiousnesse.

Pericles and Laurence de Medicis, Monarchs of Athens, and Florence.

A Popular estate is preferred by a few wise men.

Corruptions common in Popular estates.

The reasons why the Swissers' maintaine their Popular estate.

strained, *Pericles* (saith *Thucydides*) was a very Monarch, although in shew it were Popular. And *Peter Soderin* (in an Oration hee made vnto the people of Florence, to change the estate) said, That in the time of *Laurence de Medicis*, the Commonweale in shew was Popular, but in effect a meere Tyranny, for that *Laurence* gouerned all alone: but he doth not say, that it was neuer more flourishing, and that before they were neuer ten yeares free from seditions, and the most bloody factions that euer were. In like sort the Popular estate of the Romans, which had bene afflicted with so many forren and intestine warres, was it not maintained and flourished both in armes, and laws, by the Senat, and was not the authoritie thereof supported, by *Menenius Agrippa*, *Furius Camillus*, *Papirius Cursor*, *Fabius Maximus*, *Scipio*, *Cato*, *Scaurus*, *Pompey*, and diuers others: who maintained the beautie of the Senat, and restrained the people, keeping them within the bounds of honour? We do also read, that *Pelopidas*, and *Epaminondas*, were as it were lords of the Popular estate of the Thebans, after whose death the people found presently, that they had lost their chiefe pilots: as it happened in the like case vnto the Athenians, after the death of *Pericles*, Then (saith *Plutarch*) the people did float vp and downe, like a ship without a helme: and as every one would gouerne and commaund, some to set saile, others to go to harbrough, a storme came (saith *Polybius*) and the ship perished. And although the Athenians, after they had lost the soueraignie of Greece, gouerned their citie & territorie popularly, yet *Demosthenes* spake plainly, and openly before the people, That the estate of Athens was vnder the power of Orators and Pleadars, of whome the captaines depended, who had at the least three hundred men bribed, to passe whatsoever they pleased for money. A common disease (saith *Plutarch*) in all Popular estates. *Liuius* writeth thus of the Popular estates of the Tarentines, *In potestate Iuniorum plebem, in manu plebis, rem Tarentinam esse*, The estate of Tarentum was in the peoples hands, and the people in the power of the younger sort. And a little before the declining of the Popular estate of Rome, *Craffus*, *Cesar*, and *Pompey*, whome they called a triple head, gouerned and held all the Senat and people in their power and subiection: but two of them being slaine, the third became an absolute Lord. Whereby we may gather, that a Popular commaund cannot subsist without a wise pilar and gouernor, and leauing it to the most sufficient, in the end they make themselues masters, and the people serues but for a maske.

But some one will say, Doe we not see that the Cantons of the Swissers have settled a goodly Popular estate, & haue continued their gouernment aboue three hundred and fiftie yeares, and by this meanes haue not onely preferred themselues from tyranny, but haue also chased away tyrants their neighbours? The aunswere hereunto is double: First, the situation of the countrey, and the disposition of the people agrees best with a Popular estate. Secondly, the most seditious, & mutinous, go to the seruice of other forren princes: and the rest of the common people being more mild & tractable, are easily kept in awe. Moreover all the heads of the Cantons & Popular states, hauing entred into an offensive and defensue league, are strictly tied and vnited together; like vnto those that goe by night, or that are in a slipperic or daungerous way, holding one another by the hand: and in this sort they maintaine themselues against the power of Monarchs, as in old time the Athenians and Thebans did. Besides, the foundation of their Popular estate was built and cimented with the blood of the nobilitie, and of the chiefe, especially at the battaile of Sarnac; then afterwards at that at Basil when as king *Lewes* the 11 (being then but Dauphin) had the victorie: then all the nobilitie of the countrey, which had followed him, were banished, and the rest retired themselues willingly, after the treatie of the ten Cantons, made in the yeare 1510, and at the chaunge of religion in the yeare 1529: so as there remaines but a very few at Berne and Zurich,

- A** Zurich, whereas the estate is Aristocraticall. And not only the Cantons, but also those at Strausbourg, Lyndaw, Sienne, Genes, and Florence (to settle a popular libertie) slue or banished the nobilitie: as they haue done in many townes of Germanie. After they of Florence had made away their nobilitie, they diuided themselves into three factions, the greater, the meane, and the popular: and as the greater sort entred into factions, and slue one another, the meaner thought to become maisters, who were so incensed one against another, as the whole citie was nothing but fire and blood; murdering one another, vntill that the scumme of the people tooke vpon them the gouernment, they alwayes hated them that looked like gentlemen, or that ware a sword, or that had gotten to any degree of honour, in what Commonweale soeuer, or that had gathered
- B** together more riches than the rest: which made them of Strausbourg (after they had slaine all the nobilitie, to settle a Popular estate) to decree, That whosoever did aspire to be Grand Bourgmaste, should proue that his grandfather was a day labourer, an artificer, a butcher, or of some such like condition. And the auntients (to assure Popular estates) did striue to equall all citizens in goods, honours, power, and rewards: and if any one were more vertuous, more iust, or more wise, than the rest, he was banished, as I haue shewed before, seeking to make an equalitie, if it were possible: and euen *Plato* did wish, That wiues and children should be common to all, to the end that no man might say, This is mine, or, That is thine: for those words of *Meum*, and *Tuum* (said he) were the breeders of discord, and the ruine of states. By the which there will grow many absurdities: for in so doing, a citie shall be ruined, and become a household (as *Aristotle* said) although that a household or familie (which is the true image of a Commonweale) hath but one head. And for this cause an auntient *lawmaker, beeing importuned by some one, to make his country a Popular estate: Make it (saith he) in thine owne house. And if they say, That it is a goodly thing so to vnite citizens and a citie, as to make one household of it, they must then take away the pluralitie of heads and commaunders, which are in a Popular estate, to make a Monarch, as the true fathers of a familie; and to cut off this equalitie of goods, power, honour, and commaundement, which they seeke to make in a Popular estate: for that it is incompatible in a familie. But the greatest inconuenience is, that in taking away these words of Mine, and Thine, they ruine
- D** the foundation of all Commonweales, the which were chiefly established, to yeeld vnto euery man that which is his owne, and to forbid theft; as it is commaunded by the word of God, who will haue euery man to enioy the proprietie of his owne goods: and we may not say, that nature hath made all things common, for the law of the mother is not contrarie to the commaundement of the father (as *Salomon* said) figuring by an Allegorie the commaundements of God, and the law of nature. But the true popular libertie consisteth in nothing else, but in the enioying of our priuar goods sincerely, without feare to be wronged, in honour, life, wife, or familie, the which euen theeues & robbers labour to keepe. And as for the power of commaund, which popular men would make equall, there is lesse reason than in goods: for discretion and wisdom is
- E** not equally giuen to all men, and in a Popular estate they must of necessitie chuse the most sufficient magistrats, to commaund, and to administer iustice. Moreouer, whereas there is no forme of soueraignie, nor of a Commonweale, yet are the people constrained to chuse a magistrat or capitaine to commaund them, and to doe iustice: as in the countrey of Gulsula in Affrike, where there is neither king, nor any forme of a Commonweale, the people on their Faire day chuse a capitaine to doe iustice, and to assure the course of traffique. And on the frontiers of the kingdome of Fez, the inhabitants of the mountaine of Magnan (who in like sort haue no forme of a Commonweale) if they see any straunger to passe by, which seemes to excell the rest in wisdom, him
- they

* Bias.

Taking away
the proprietie of
goods, we ouer-
throw a Com-
monweale.

Wisdom is not
equall in all
men, to impart
offices equally.

A rule in Popular States.

An error in equalitie.

they stay by force, to administer iustice vnto them. It is a maxime in Popular states, **F** That when as the persons are equall which are to vndergo a charge, to cast lots: and if one exceeds another, then they chuse the most sufficient. And who doth not see the great difference among men, that some haue lesse iudgement than bruite beasts; and others haue such cleere marks of diuine light, as they seeme rather angels than men? and yet those which seeke equalitie, will haue the soueraigne power of life, honour, and goods, giuen vnto furious, ignorant, and mad men, as well as vnto iudicious and wise men: for the voices in all assemblies are numbred, without any due consideration of euerie mans worth: and alwayes the number of fooles, wicked and ignorant men, doth farre exceed the good, if that be true which *Salomon* saith, That there is not one among a thousand: the which is confirmed by the Poet,

*A good man and a wise, one such as out of all mankind,
Though Apollo sought and searcht himselfe, yet could he scarcely find.*

All nations haue need one of another.

Equalitie and friendship are incompatible.

A Popular estate a pernicious tyranny, if not wisely gouerned.

Generall assemblies are dangerous in Popular estates.

And yet there is a naturall reason, which doth teach vs, that the equalitie they seeke, doth ruine the grounds of all loue and amitie, the which can hardly subsist among equals, for that there are neuer more quarrels & dissentions, than among them that are equall; either for that the one seekes to supplant the other, or for that the one may liue without the other. And it seemes that God hath imparted his benefits and graces, to countries and nations, in such a measure, as there is no man but hath need of another: to the end that through mutuall courtesie and good offices, euerie nation in particular, and all in generall, should be constrained to contract alliances and friendships together: as it is seene in a mans bodie, the which is the figure of a wel ordered Commonweale, there is no member but receiues helpe and succour from the rest, and that which seems most idle, digests the nourishment for all the rest: as *Menenius Agrippa* a Roman Senator, did wisely shew vnto the common people, which were fallen from the nobilitie, & did seeke to equall themselues vnto them in power and authoritie. Popular gouernments in the beginning seeme pleasing and goodly, contrarie to Monarchies: the which are like vnto great riuers, which at their first springs haue small and weake currents, but increasing by their long course, their streames grow bigger, & more rough, and run with more spacious chanelles, the farther they are from their heads and springs. But Popular states are like vnto the wind, the which is most vehement where it riseth, but at the length it is broken and groweth weake. I haue discoursed hereof the more at large, to shew the inconueniences which follow a Popular estate, to the end I might reduce them to reason which seeke to withdraw the subiect from the obedience of their naturall prince, through a false hope of libertie, in framing of Popular states: the which in effect is nothing else, but the most pernicious tyranny that can be imagined, if it bee not gouerned by wise and vertuous men. And therefore among the Cantons of the *Swissers* (those which are best ordered) although they haue established a forme of Popular Commonweale, yet they gouerne themselues Aristocratically; hauing two or three **K** counsels, to the end the people deale not in affaires of state as little as may be; assembling seldome but by quarters, or parishes, which they call *Schaffes* (as in old time the inhabitants of *Mantineia* a Popular state did) fearing the tumults and rebellions which fall out commonly when they are altogether. But seeing it is not in the power of good citisens, nor of wise politicians, to change a Popular estate into a Monarchie: the chiefe grounds then of a Popular estate consists in the strict obseruation of lawes and ordinances, being of it selfe quite different and disagreeing from the lawes and order of nature, which giues the commaund vnto the wisest: a thing verie incompatible with the people:

A people: for if a multitude (being impatient of command) haue not good lawes and statutes before their eyes, as lights to guide them, the estate will be soone ruined: And therefore the Swissers do obserue their lawes verie seuerely, else their estate had not bene so durable: for euen as weake & crased bodies fall soone into diseases, if they leaue the good diet and order prescribed them by the Physitian; so is it in a Popular state; if they doe not obserue their laws and ordinances. And thus much to satisfie them which are not contented, although the greatest men that euer were, haue disallowed of a Popular estate.

Let vs see now if an Aristocraticall government bee any thing better than the rest, as many hold opinion: for if a mediocratie be commendable in all things, and that we must flie all vicious extreames; it followes then, that these two vicious extreames being reiected, we must hold the meane, which is an Aristocratie, or a certaine number of the most apparant citisens: as if there were ten thousand citisens, let them make choyce of an hundred; the which were a iust proportionable number betwixt one & a thousand: increasing or diminishing the number according to the multitude of the subiects, wherein they shall hold that commendable & desired mediocratie betwixt a Monarchy and a Democratic. There is yet another argument of no lesse efficacie, to proue that an Aristocraticall estate is the best, which is, That the power of soueraigne commaund, by naturall reason, is to be giuen to the most worthy: and dignitie cannot consist but in vertue, in nobilitie, or in riches, or in all three together. If then wee desite to chuse one of the three, or to ioyne them all together, the estate shall bee alwaies Aristocraticall: for the noble, rich, wise, and valiant men, make alwayes the least part of the citisens, in what place soeuer; by naturall reason then that government must bee Aristocraticall, when as the least part of the citisens commaund the state, or whereunto the best and most vertuous men are admitted.

A man may also say, that the soueraigntie should be giuen onely to the most rich, as to them that haue most interest in the preseruatiō of the whole state. Without doubt the most rich haue the greatest interest, and beare a greater charge than the poore, who hauing little to loose, abandon the Commonweale at need. And therefore *Q. Flaminus* did wisely commit the government of the cities of Thessalie, to the most rich, as to them that had most interest in the preseruatiō of the state. Moreouer it seems that necessitie doth guide vs to an Aristocraticall estate: for although that in a Popular estate, and in a Monarchy, the monarch or the people in shew haue the soueraigntie, yet in effect they are forced to commit the government to the Senat, or priuie Councell, who consult, and many times determine of greatest affaires: so as it is alwaies an Optimacie. And if the monarch, or people, be so ill aduised as to gouerne otherwise than by a wise councell, there can nothing bee expected but an ineuitable ruine of the state. I omit other reasons lesse necessarie, as euery one may coniecture, to conclude, that an Aristocratie is the most commendable state. And yet I say, that all together are not sufficient to proue it: for as for that commendable mediocratie which we seeke, it is not reall, diuiding things in the middest, but consists in reason: as liberalitie a meane betwixt two vicious extreames, yet doth it approach neerer vnto prodigalitie than vnto couetousnesse. The meane which they seeke betwixt one and all in generall, is reall; neither can it euer be alike, for that there are some cities which haue not a thousand citisens, and others that haue aboue three hundred thousand: so as an Aristocraticall estate shall be alwaies mutable and variable, for the vncertaintie of the number: and it will often fall out, that a great Aristocraticall estate shall haue more commanders, than a Popular state in a small citie shall haue citisens: as if there be foure hundred thousand citisens, to obserue a true Geometricall proportion, there must be foure thousand gouernours or

Reasons for an
Aristocraticall
estate.

The government
of a Common-
weale must be
giuen to them
that haue the
most interest in
the preseruatiō
thereof.

Many commanders, cause many factions.

Those Aristocraticall estates most durable, that haue fewest lords.

No counsell in any estate hath any power to command.

Platoes argument captious.

The estate of few lords, is the estate of few tyrants.

In all colledges, corporations, &c. states, the greatest number carries it.

Anno. 1543. The princes spirituall of the empire, are more in number than the temporall.

commanders: so as by a necessarie consequence, the inconueniences which are incident to a Popular estate, will also fall out in an Aristocratie, by reason of the multitude of lords: for the more gouernours there be, the more factions will grow, their consultations will be more hard to determine, and are sooner discouered. And therefore those Aristocraticall estates are more durable and assured, that haue fewest lords: as the Lacedemonians, who had but thirtie gouernours, and the Pharsalians twentie; they did long maintaine their estates, whereas others decaied soone. It is not then the middle number betwixt one and all, which makes that commendable meane, seeing that there be as many kinds of vicious Commonweales, as of commendable and vertuous.

As for the other point, That they must giue the soueraigntie vnto the most worthy, It is true; but the argument makes more for a Monarchy, than for an Aristocratie: for among the most noble, the most wise, the most rich, and the most valiant, there is alwayes some one that doth excell the rest, to whome by that reason the soueraigntie doth belong: For it is impossible to find them all equall in all respects. And as for the Senat, or Councell, we haue shewed before, that it is diuided from maiestie, and hath no power to commaund, in what estate soeuer: else doth it loose the name and marke of a Senat, the which is ordained to no other end, but to giue counsell to them that haue the soueraigntie, to whome belong the resolution & decission of the councell. But *Plato* had another argument for an Aristocraticall estate, saying, That it was verie hard to find any one man so wise and vertuous, as was requisit for the gouernment of an estate, and by that meanes a Monarchie were not sure. But this argument is captious, and may be vsed against himselfe: for if it be hard to find any one prince so wise as he desireth, how shall they find out so great a number as is needfull in a Seigneurie. And *Peter Soderin* Gonfalonier of Florence, speaking vnto the people against an Aristocraticall estate, he vsed the same argument which *Mecenas* did before *Augustus* against *Marcus Agrippa*, saying, That the gouernment of few lords, is the gouernment of few tyrants: and that it was better at all euents to haue but one tyrant. For if any one will say, that among many there will haply be some number of good men, we must then rather chuse a Popular estate, for that in a great number there will be found more vertuous than in a lesse. But both the one and the other is vnprofitable: for as well in all Aristocraticall and Popolar estates, as in all corporations and colledges, the greatest part doth still ouer-rule the sounder and the better: and the more men there be, the lesse effects are there of vertue and wisdom (euen as a little salt cast into a great lake, looseth his force:) so as the good men shall be alwayes vanquished in number by the vicious, and ambitious: and for one tyrant there shall be a hundred which will crosse the resolution of the lesser but of the sounder part: as it is alwaies scene as well in the diets and assemblies of the princes of Germanie, whereas the spirituall princes of the empire, being the greatest number, haue alwaies crost the princes temporall: so as by their means the emperor *Charls* the first, caused the empire to declare it selfe an enemy to the house of France, the which had not bene so in many ages: to the end the temporall princes should haue no hope of any succours from Fraunce in their necessities, whereinto they soone after fell. And to make short, it hath bene alwayes scene, that the more heads there be in a Seigneurie, the more controuersies arise, and lesse resolution. And therefore the Seigneurie of Venice to auoid these inconueniences, commits all affaires of state to the manning of a dozen persons, and most commonly to seuen, especially to keepe their affaires secret, wherein consists the health and preferuation of an estate.

But let vs suppose, that a priue Councell in an Aristocraticall estate, bee so secret, as nothing is discouered; yet is it a difficult thing for few commanders to maintaine their estate against a multitude, which hath no part in honourable charges: for that most

com-

A commonly the lords scorne and contemne the popular, and the poore carrie alwaies a capital hatred against the great: so as vpon the least dissention among the nobles (the which is ineuitable if they be men of faction, and giuen to armes) the most factious and ambitious flieth vnto the multitude, and ruines the state: as I haue noted before of the Seigneuries of Genes, Florence, Cologne, Zurich, Strausbourg, Lindaw, and the auncient Phocians, Samians, Therenecians, Amphipolites, Corcyrians, Cnidians, Mytelenians, and Hostienses; in the which the multitude hath expelled, banished, spoyled, and slaine the nobles. And what guard soeuer they keepe, yet do they liue in continuall distrust, and sometimes in such feare, as they doe not assemble together but in places of strength: as in the citie of Benizete, lying in the realme of Telefin in Barbarie, all the

B lords and commanders keepe themselves in forts, fearing the people should mutine against them, or that one of them should murder the rest. So in old time the inhabitants of Miletum, after they had expelled their two tyrants, they fell cruelly to armes among themselves, the nobles against the people: but in the end the rich hauing vanquished the poore, they framed an Aristocraticall estate, where they liued in such feare, and distrust, as they went into ships to hold their counsels, fearing (saith *Plutarch*) to be surprisid and slaine by the people: like vnto the lords of the Samiens, who were all massacred by the multitude, at such time as they were in counsell. So as in an Aristocracy the lords dare not traine the people vp to arms, nor put weapons into their hands: neither can they go to the warre, but they are in daunger to loose the estate, if they bee

C once defeated: neither can they assure themselves of strangers, fearing they should bee subiected by them. To which daungers a Popular estate is not subiect, euerie one hauing a part in the state. An Aristocraticall estate then, is not onely in daunger of forraigne enemies, but of the people, whome they must content or keepe in awe by force: to content them without making them partakers of the gouernment, were very hard; & to admit them to charges of honour, without alteration of the state, from an Aristocracy to a Popular, were impossible: to keepe them in subiection by force, that were not safe, although it might be done; for that were to shew an open feare and distrust of them whome they must win by loue and courtesie: else vpon any forraigne war against the state, or among the gouernours themselves, the people will bee easily drawne to

D armes, and to shake off their yoke. And therefore the Venetians to maintaine their Aristocraticall estate, impart some small offices vnto the people, contract alliances with them, borrow of them to bind them to the maintenance of the state; and disarme them quite: and to make them more mild and pliable, they giue them full scope and liberrie to all sorts of pleasures: and sometimes they make their richest citisens bourgesses. If they haue any warre against the stranger, they soone compound it at what price soeuer: and aboue all things they labour to quench and pacifie all partialities and hatred among the gentlemen: so as the rich being drunke with delights, and the poore hauing meanes to traffique, and to exercise themselves in mechanike arts, with the commoditie of the place, lying vpon the sea, being by nature strong, they haue no great occasion, & lesse power to rebell. By these meanes the Venetians (next vnder God) haue maintained their estate, and not by the forme of an Aristocraticall gouernment, as many do hold. And although the nature of the situation of Venice, the honour of the people, the wisdom of the Seigneurs, and the lawes, be fit for an Aristocraticall estate, yet is it not aboue foure hundred yeares, that they haue instituted this forme of Commonweale, neither could they auoid many seditions and ciuill warres; as of the Bochonians, Faleriennes, Tepoliennes, Baiamontaines, and the cruell factions of the Iustinians, the Sceuoles, Seliens, Balsiens; the murder of eightene dukes, and of a great number of Senators, as we may read in their histories. Wherein *Paulus Iouius* was deceiued,

E

The cause that doth most ruine Aristocraticall estates.

The commanders in an Aristocraticall estate are in continuall feare and distrust

How the estate of Venice hath bene preferred.

Gianot. Donat. da Repub. Venet.

who held, That the estate of Venice had continued eight hundred yeares : and *Paulus F*
Manutius, and *du Moulin*, haue erred more, saying, That it had bene oftwelue hundred
 yeares standing : for it is well verified by the auntient registers of their Seignurie, that
 before *Cebsastian Cian* duke of Venice, in the yeare 1175, it was a meere Monarchy :
 and yet there hath not bene any Aristocraticall estat, to our knowledge, that hath so
 long continued, but haue bene for the most part chaunged into cruell Tyrannies, or
 bloodie Popular estates, as we haue shewed elsewhere. And to make it more apparant,
 I will produce for a new example the state of Genes, who hauing peace with the Vene-
 tians, by meanes of the protection of Fraunce, soone after the Adornes, and Fregoses,
 diuided the state (the which at that time was Aristocraticall) into two factions, whence
 ensued many murthers of the chiefe men : so as the people fell to armes, freed them- G
 selues from subiection, and tooke the gouernment of the state from the gentlemen:
 and in succession of time made a law, whereby none might bee duke of Genes, vnlesse
 hee were a Plebeian : and since they haue published another law, prohibiting the no-
 bles to haue aboue a third part of all other offices. And soone after in a sedition they
 expelled all their gentlemen, chusing eight Tribunes, and after they had reiected the
 protection of Fraunce, they chose a Dyer of silke for their duke, whome king *Lewes*
 the twelfth caused to bee hanged, after that hee had taken the citie : but when as *Andrew*
Doria reuolted, and that hee had power to dispose of the state at his pleasure, hee made
 choyce of all such as had six houses within the citie, and of some others of name and
 marke, which were not so rich, and diuided them all into eight and twentie tribes, the H
 which they called *Alberghi*, making them gentlemen, and giuing them the gouern-
 ment of the state, and debarred the rest of the common people, onely with this excep-
 tion, To haue libertie euertie yeare to make ten of the Plebeians gentlemen, and to re-
 ceine them into the number of the nobilitie : the which notwithstanding was not well
 executed. So of foure and twentie thousand ciizens, there were not aboue twelue
 hundred, or thereabouts, that had any part in the state : and of this number it was de-
 creed, That euery yeare there should be a great Councell made of foure hundred, the
 which should chuse the Duke and the eight Gouernours, which they call the Seigneu-
 rie, to manage all affairs of state for the space of two yeres that they should be in charge,
 vnlesse matter were of great importance, then to assemble the Senat of an hundred gen- I
 tlemen. And as for the duke, hee might not bee chosen but out of the noblest families,
 with a guard of 500 Lanquenets, besides the generall of the armie, and the fortie cen-
 tiners. I omit other officers, as the Procurators of the Seignurie, the Podestat, or Ma-
 ior, the Iudges of the Rota, the seuen extraordinarie Iudges, the fiue Syndiks, the Cen-
 sors, and the officers of Saint George. The estate of Genes hath continued in this sort
 43 yeares, vnder the protection of the house of Austria. From the yeare 1528, vnto the
 yeare 1549, that *John Elisco* beeing chosen duke of Genes after *Benedict Gentil*, would
 haue made his power perpetuall, and to effect it, he laboured to subiect the Seignurie
 of Genes vnto the crowne of France, hauing already defeated *Andrew Dories* armie, &
 slain his nephew, he fell into the sea leaping from one gally to another, the which ouer- K
 threw all his desseins. Since the seignury hath taken again the forme established by *An-*
drew Doria, the which was continued vnto the yere 1574, that it was diuided into two fa-
 ctions ; the one of the auntient, the other of the new gentlemen, who are yet at ciuill war:
 and the auntient seeing themselues expelled by the new, haue ceized vpon the places of
 strength, and forts without the citie, being in danger to be quite ruined, or at the least to
 fall into a Popular estate, as they did in the yeare 1506. The sedition happened for the
 qualitie of their nobilitie: for after that *Andrew Doria* had settled the state (as I haue
 said) & excluded the Plebeians from being dukes of Genes, the gentlemen of the auntient
 houses

Ann. 1506.
 The estate of
 Genes, and the
 change thereof.

A houses (which were but foure, the *Dorias*, the *Spinolas*, the *Grimoaldes*, and the *Fiefques*) caused their genealogies to be drawne and registred in publicke acts, diuiding themselves by this meanes from the Plebeians that were newly ennobled; who disdain-
 ing thereat, and finding themselves the greater number and the stronger, they haue
 chaled away the antient houses, and if they be not soone reconciled, the people in the
 end will expell them all.

The cause of fa-
 ctions at Genes.

I haue shewed before, that the great Councell or Senat in an Aristocracall estate,
 ought to be perpetuall, to the end there may be some firme ground, or foundation
 whereon the annuall change of all officers may relie. And as for the Duke, it were
 strange if he should not ceaze vpon the Soueraignie, hauing fise hundred men for his
 guard, seeing that he hath two yeares to remaine in charge: considering the factions
 that are made to attaine vnto this dignitie of honour. We see then that the chiefe
 ground and support of an Aristocratie, consists in the mutuall loue of the comman-
 ders: for if they agree and be of one mind, they will maintaine themselves, and gouerne
 much better than the people: But if there be any factions among them, then there is
 no State so difficult to maintaine, for the reasons before mentioned; especially, if the
 Commanders be martiall men: for souldiers hate nothing more than peace. And we
 may not matuile if the Aristocratie of the Venetians, Rhagusians and Luquois, haue
 continued some ages: for they are not giuen to armes, neither haue they any thing in
 greater recommendation than their trafficke and commoditie. And to conclude
 briefly, there is no forme of Aristocratie more perfect and goodly, nor more assured,
 than whereas they make choise of men of vertue and reputation to commaund; or at
 the least that they be not infamous: and if any one dies, to substitute another in his
 place by election, as they do vse at Geneva. If any one of the Councell of 25 dies, the
 most antient of the 60 succeeds him most commonly, although it be done by election:
 and the most antient of the great Councell of 200 comes into the Councell of 60, and
 the two hundred chuse one of the honestest Burgeses or citisens that is without re-
 proch. Whereby few command and gouerne the state, and yet euery man hopes to
 attaine vnto it, not by mony nor ambition, but by honour and vertue. This may pro-
 perly be called an Aristocratie, the which is least subiect vnto dangers, and to the re-
 bellion of Lords or subiects.

The ground and
 support of an
 Optimacie.

The best kind of
 Optimacie.

Such a Seignurie will obserue the lawes duly, and administer iustice vprightly: if
 they be contented with their estate, and seeke not ambitiously to wrest from another,
 as the Lacedemonians did. For it is impossible that a Seignurie of few Lords and
 Commanders, should get and maintaine a great Empire, as a Monarke may: also the
 ruine and change of so great a Seignurie is not so much to be feared, as of a great and
 mightie Monarchie, which draweth after it the ruine of the greatest families, and of
 tentimes of allies and of neighbour States that are in his protection: Like vnto a great
 building which tailed on high, blind the sight of others, and falling, ruines with her
 weight those that are neere it, with a fearefull noyse to them that heare it. Behold the
 commodities and discommodities of a popular and Aristocracall estate. Now we
 are to speake of a Monarchie, which all great men haue preferred before all other
 Commonweales: yet we find it is subiect vnto many dangers, whether the change of
 the Monarke be from bad to good, or from good to better: although there were no
 other thing but the change of him that hath the Soueraignie: yet is it much to be fea-
 red in all states: for we commonly see in the change of Princes, new desseines, new
 lawes, new officers, new friends, new enemies, new habits, and a new forme of liuing:
 for most commonly all Princes take a delight to change and alter all things, that they
 may be spoken of; the which doth many times cause great inconueniences, not only

The discom-
 modities of a Mo-
 narchie.

Plato lib. 4. de
 Legib. Mutatio-
 nes in republica
 putat esse pernicio-
 sas.

to the subiects in particular, but also to the whole bodie of the state. But if this were not, and the Prince were as wise and vertuous as might be desired, yet the leagues and treaties made with his Predecessor end with him; whereupon alliances being ended, Princes fall to armes, and the stronger assailes the weaker, or prescribes him a law. The which cannot chance in popular and Aristocraticall estates, when as they make perpetuall leagues, for that the people dies not; so as other Princes and priuate men desire rather to contract with a Seigneurie than with a Prince, for the assurance of treaties and bonds, wherunto the successors of Princes are not tied, vnlesse they be their heires, as manie maintaine and practise. The other inconuenience in a Monarchie is, the danger to fall into ciuill warre, by the diuisions and factions of such as aspire vnto the crowne, especially if it be electiue, the which doth oftentimes draw after it the ruine of the state: Yea, in a successiue right there is no small danger, if there be many in one degree, who many times kill one another, or at the least diuide the subiects. We haue too many examples before our eyes: and oftentimes the lawfull successour is expelled by an vsurper. But admit there were no contention for the Monarchie, yet if the Monarke be a child, there will be some diuision for the gouernement, betwixt the mother and the Princes, or betwixt the Princes themselues. And God (to be reuenged of his people) threatens to giue them for Princes children and women. And although the infant haue a tutor by the appointment of his predecessour, or by the custome, yet is it to be feared, that he will make himselfe absolute Lord: as *Triphon* did, who cruelly slue his pupill the king of Siria, to make himselfe king. The which is more to be feared, if the tutor marrieth the pupils mother, as *Lewis Sforce* did, who by that meanes murthered the young prince, and made himselfe duke of Milan. And although for the auoiding of this danger, they giue the gouernement to the neereft of kinne, and the nourishment of the infant to the mother; yet haue there bene murthering mothers since, who haue not onely sold and betrayed the state, but euen the liues of their children, as the mother of *Charilaus* king of Lacedemon did. And sometimes the tutor continues his gouernment, and leaues nothing vnto the king but the title, as the duke of Northumberland did to *Edward* the sixt king of England: and *Appelles* to young *Philip* king of Macedon, who could not inioy his estate, vntill he had slaine his tutor. And if the prince comes to the crowne being yong and out of gouernment, there is no lesse danger: for then when as he should haue a dozen wise maisters to restraine his licentious appetits, the which are then most violent, he is altogether free and at liberty: so as commonly the courts of yong princes abound in follies, maskes, and licentiousnesse, and the subiects follow the princes humor; so as for one vice there multiplies ren, as I haue said before. If the prince be warlike, he will hazzard his subiects, his estate, and his person, to make prooue of his valour. And although he come vnto the state being of a competent age and wise, the which is rare, and the greatest gift which a people can craue at Gods hands: yet soueraignie hath his mischiefe, most commonly the wise become foolish, the valliant cowards, and the good grow wicked. It were time lost to repeat examples, the which are too ordinarie. To conclude, if the prince be subtil and wicked, he will plant a tyrannie: if he be cruell, he will make a butcherie of the commonweale; or a brothell house if he be licentious, or both together: if hee be couetous, he will pull both haire and skinne from his subiects: if he be prodigall, he will sucke their blood and marrow to glut some dosaine of horseleeches that are about his person. And yet he will do worse than all this, if he be a sot and ignorant, as we haue sayd elsewhere. Yea, so much the more is a tyrannie to be feared, for that a tyrant hath no maister nor companion to oppose against him. These bee the dangers of a Monarchie, the which in truth are great, but there is greater perill in an Aristocraticall estate,

Isaie. cap. 5.

The tutors to
Monarchs do oft-
entimes make
themselves abso-
lute Lords.

Plutar. in Licur.

Polib. lib. 7.

Soueraignie al-
tereth the hu-
mors of princes.

state, and much more in a Popular: for the dangers which we haue set downe for the most part cease, when as the Monarchie comes by right of succession, as we will shew hereafter. But seditions, factions, and ciuill warre, are in a manner continuall: yea, sometimes greater for the attaining vnto offices, in Aristocraticall and Popular commonweales, than for the state in a Monarchie; the which admits no sedition for offices, nor for the state, but after the death of the prince, and that very seldome. But the chiefe point of a commonweale, which is the right of soueraigntie, cannot be, nor subsist (to speake properly) but in a Monarchie: for none can be soueraigne in a commonweale but one alone: if they be two, or three, or more, no one is soueraigne, for that no one of them can giue or take a law from his companion. And although we imagine a bodie of many lords, or of a whole people to hold the soueraigntie; yet hath it no true ground, nor support, if there bee not a head with absolute and soueraigne power, to vnite them together: the which a simple magistrat without soueraigne authoritie cannot do. And if it chance that the lords, or the tribes of the people be diuided (as it often fals out) then must they fall to armes one against another. And although the greatest part be of one opinion, yet may it so happen, as the lesser part hauing many legions, and making a head, may oppose it selfe against the greater number, and get the victorie. We see the difficulties which are, and alwayes haue bene in Popular states and seignuries, whereas they hold contrary parts, and for diuerse magistrats: some demaund peace, others warre, some will haue this law, others that; some will haue one commander, others another; some will treat a league with the king of France, others with the king of Spaine, corrupted or drawne some one way some another, making open warre: as it hath bene seene in our age among the Grisons. Moreouer, sometimes it happens by the custome of the countrey, that a law, the prince, or a magistrat, is not admitted, if all that haue voices giue not their consent: as in Polonia whereas the lesser part must change their opinion, and ioyne with the greater number, either by loue or force, and for this cause they come armed to the field to chuse their king, and to force the lesser part to consent: the which cannot happen where there is a soueraigne head, of whom depends the resolution of all things. Moreouer, in a Popular and Aristocraticall estate, alwayes the greater number will be beleued, although the wiser and the most vertuous bee fewest in number; so as most commonly the sounder and the better part is forced to yeeld vnto the greater, at the appetite of an impudent Tribune, or a brazen faced Orator. But a soueraigne Monarch may ioyne with the sounder and the better part, and make choise of wise men, and well practised in matters of state: whereas necessitie doth force them in other commonweales to admit wise men and fooles and altogether to offices and counsell. It is also impossible for a Popular state, or an Aristocratie, to command with soueraigne power, or to do any act which cannot bee done but by one person onely: as to conduct an armie and such like things: but they must create magistrats and commissaries to that end, who haue neither the soueraigne power, authoritie, nor maiestie of a Monarch. And what power soeuer they haue by vertue of their places, yet Popular and Aristocraticall commonweales, finding themselves imbarcked in any dangerous warre, either against the enemy, or among themselves, or in difficultie to proceed criminally against some mightie ciuizen, or to giue order for the plague, or to create magistrats, or to do anie other thing of great consequence, did vsually create a Dictator, as a soueraigne Monarch: knowing well that a Monarchie was the anckor whereunto of necessitie they must haue recourse, *Trepidæ patres, saith Titus Linius, ad summum auxilium decurrunt, Dictatorem dici placet*, The fearefull fathers flie vnto their last refuge, they thought it best to name a Dictator. And when as *Hanniball* made all Italie to tremble,

Comparison of dangers.

Commodities of a Monarchie.

In Popular and Aristocraticall estates the lesser part is always ouerruled by the greater, the which is contrarie in a Monarchie.

Linius lib. 3.
lib. 2.
lib. 7.
lib. 4.

Ad Dictatorem dicendum remedium iamdiu desideratum Civitas confugit, The citie fled vnto the remedie so long desired, which was to name a Dictator. And the reason was, for that they held the Dictator for a god, and his commandements for oracles, *Dictatoris Edictum pro numine semper observatum*, The Dictators Edict was alwayes religiously obserued. And euen the enemies besieging the citie of Rome, abandoned the siege, hearing that they had created a Dictator, *Tantus erat Dictatoris terror apud hostes, ut eo creato statim a menibus disceserint*, So great was the feare of a Dictator with the enemies, as he was no sooner created, but they departed from the wals. For oftentimes euen the Consuls and their commaundements were neglected and troden vnder foote: and such as had offended retired to their companions, that is to say, to the people, to whom they might appeale. The which *Appius* the Consull seeing, hee sayd, *Minas esse Consulatum non imperium, ubi ad eos qui una peccauerunt promouere liceat agendum*, Dictatorem a quo prouocatio non est creemas, They were but the threats, sayd he, of Consuls without any commanding power, seeing they might appeale vnto them who had offended in the like manner, Go to then, let vs create a Dictator from whom there is no appeale. The impunitie of vices, and the contempt of magistrats in a Popular estate, doth sufficiently shew that Monarchs are necessarie for the preseruacion of the societie of mankind, seeing that the Romans who for the error of one Prince, had all kings in hatred, made a Dictator for the conduct of all their great affaires. So did the Lacedemonians in their extremities create a magistrat with power like vnto the Dictator, whom they called Harmoste: and the Thessaliens, him whom they called Archus: as in the like case the Mityleniens their great Æzinnere; to whom the great Prouidador of the Venetians may be in some sort compared: finding by experience that an absolute power vnted in one person, is more eminent and of greater effect, and that the same power imparted to two, three, or many lords, or to a whole communalitie, declines and looseth his force, like vnto a sagot vnbound and diuided into manie parts. And therefore *Tacitus* saith, that for the execution of great exploits the power of commanding must be restrained to one alone: the which is confirmed by *Titus Livius*, who sayd, that three Tribunes created with Consularie power, gaue a sufficient testimonie that the force of command imparted to manie, is fruitlesse: and especially in militarie causes, the which *Hanniball* did find, hauing against him an armie of 60000 men, commanded by two Consuls, *Paulus Æmilius*, and *Terentius Varro*, whom hee defeated: and *Amurath* against the Christian Princes at the battell of Nicopolis: and the emperour *Charles* the first against the two commanders of the protestants. And we may not marueile if the duke of Vrbin with a few hietlings made head against so mightie an armie, led by the chiefe commanders or generals, the which depended not one of another, that is to say, *Ranice Vitelli*, and *Laurence de Medicis*: for euen *Leo* writes in his historie, that the people of Affricke hold it for an infallible Maxime, that a prince which is but weake in forces, shall alwayes defeate a stronger armie that hath two generals. For whilest that *Cleomenes* king of Lacedemon did gouerne absolutely alone, he obtained great and goodly victories, and was neuer vanquished: but after that hee had called home the king which was banished to impart his soueraigne authoritie vnto him, soone after he was ouerthrowne and put to flight. And for this cause *Aristides* the iust, being chosen generall with *Miltiades* to commaund the armie either of them his daie, (as the Romane Consuls were wont to do) he resigned all his power and authoritie to his companion, who gaue the Persians a great ouerthrow. There are a thousand such like examples, which do shew vs the necessitie to haue one head or commander, not onely in warre (where there is greatest danger) but also to obey one soueraigne prince in a Commonweale: for euen as an armie is ill led, and most commonly

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A ly defeated that hath many Generals; euen so is a Commonweale that hath manie lords, either by diuision, or a diuersitie of opinions, or by the diminution of power giuen to manie, or by the difficultie there is to agree and resolute vpon any thing, or for that the subiects know not whom to obey, or by the discouerie of matters which should be kept secret, or through altogether. And therefore whereas we sayd before, that in a well ordered state, the soueraigne power must remaine in one onely, without communicating any part thereof vnto the state (for in that case it should be a Popular gouernment and no Monarchie) and that all wise Politicians, Philosophers, Diuines, and Historiographers haue highly commended a Monarchie aboue all other Commonweales, it is not to please the prince, that they hold this opinion, but for the safetie and happinesse of the subiects: And contrariwise, when as they shall limit and restraine the soueraigne power of a Monarch, to subiect him to the generall estates, or to the councill, the soueraigntie hath no firme foundation, but they frame a popular confusion, or a miserable Anarchie, which is the plague of all states, & Commonweales; the which must be duly considered, not giuing credit to their goodly discourses, which perswade subiects, that it is necessarie to subiect Monarchs, and to prescribe their prince a law; for that it is not onely the ruine of the Monarch, but also of the subiects. It is yet more strange, that many hold an opinion that the prince is subiect to his lawes, that is to say, subiect to his will, whereon the ciuill lawes (which he hath made) depend; a thing impossible by nature. And vnder this colour and ill digested opinion, they make a mixture and confusion of ciuill lawes with the lawes of nature, and of both ioynly with the lawes of God: so as they suppose, when as the prince forbids to kill, to steale, or to commit adulterie, that it is the princes law. But for that we haue layd open this poynt at large, I will now passe it ouer. It shall suffice that we haue made apparant demonstration, that a pure absolute Monarchie is the surest Commonweale, and without comparifon the best of all. Wherein many are abused, which maintaine that an Optimacie is the best kind of gouernment: for that many commanders haue more iudgement, wisdom, and councill then one alone; But there is a great difference betwixt councill and commandement: The aduice and councill of many graue and wise men may be better than of one, as they say commonly that many men see more than one alone: but to resolute, to determine and to command, one will alwayes performe it better than many: and then he which hath aduisedly digested all their opinions, will soone resolute without contention, the which many cannot easily performe: Besides ambition is so naturall among commanders that are equall in power, as some will rather see the ruine of the Commonweale, than acknowledge any one to be wiser than themselves: Others know what is good, but shame keepes them from changing of their opinions, fearing to loose the least point of their reputations: So as it is necessarie to haue a soueraigne prince, which may haue power to resolute and determine of the opinions of his councill.

*Aliud est confusio
lere aliud imperare.*

E If then a commonweale be but one body, how is it possible it should haue manie heads, but that it must proue a monster, as the emperour *Tiberius* sayd vnto the Senate, else it were no bodie, but a hideous monster with many heads. But some one will say that new princes make new lawes, new institutions, new ordinances: we will confesse that it happens in some, who to shew their power make lawes sometimes without any reason, but this is more frequent and usuall without comparifon in Popular and Aristocraticall estates: For new magistrats so often created, and which play the pettie kings in their Commonweales, would bee loth the yeare should passe away without giuing some cause to speake of them, either for good, or euil: for prooffe whereof we find more lawes published at Rome and at Athens, then throughout all the world:

One body cannot haue many heads.

For

For alwayes through ieaiousie one vndid what another had made: and all, as they said, was to make themselues famous, and to rob the honour of their companions, with the preiudice of the Commonweale. But to auoid these inconueniences, and insatiable ambitions in an Optimacie, or Populat state, you must not in any sort suffer the law or ordinance to carrie the name of the magistrat, as they vsed in Rome and Athens, which was the cause of so many lawes. And to say that treaties and leagues die with the Prince, that happens not alwayes, for most commonly they are continued and prorogued by an expresse clause, some yeares after the death of the prince, as it hath bene alwayes obserued betwixt the house of France and the Cantons of the Suissers, the which haue bene for the kings life, and fīue yeares after. Moreover, we haue formerly shewed, that it is expedient allyances and leagues should not bee perpetuall; and for this cause states and commonweales do oftentimes limit their treaties to a certaine time. And as for bonds and treaties of peace, they are accustomed for their better assurance to haue them confirmed by the estates, or published in soueraigne courts, and oftentimes they bind in particular the greatest noblemen: although there bee farre greater assurance in matter of obligation and promises made by a prince than by a multitude: and the rather for that the lawes of honour are in much more recommendation to a soueraigne prince, than to a multitude of artisans or marchants, who are kings in a name collectiue, and nothing in particular. And as for the troubles which the gouernement of a young king do cause, that happens rarely, and is more incident at the election of magistrats: For at the chusing of a Gonfalonier of Genes for two yeares onely, the Commonweale is euer in combustion. There is no reason to ballance the cruelties and extorsions of a tyrant, with the actions of good princes: we know wel that a peaceable Optimacie and wisely gouerned, if it may be, is better than a cruell tyrannie. But the question is, whether it be better to haue a iust and vpright king, or manie good lords: and whether a tyrannic offitue tyrants be not more dangerous, than of one tyrant alone: And if there be not much more danger in Popular and Aristocraticall estates, than in a Monarchie. Yea it is most certaine that a tyrannicall Monarchie is sometimes more to be desired than a Democratie or Optimacie, how good soeuer: For if many wise and skilfull pilots hinder one another in strīuing to gouerne the helme; euen so will many lords do, euery one seeking to gouerne the Commonweale, be they neuer so wise and vertuous. Although it be not needfull to insist much vpon this prooffe, that a Monarchie is the most sure, seeing that a familie which is the true image of a Commonweale can haue but one head, and that all the lawes of nature guide vs vnto a Monarchie, whether that we behold this little world which hath but one bodie, and but one head for all the members, whereon depends the will, mouing and feeling: or if we looke to this great world which hath but one soueraigne God: or if we erect our eyes to heauen, we shall see but one sunne: and euen in sociable creatures, we see they cannot admit many kings, not many lords, how good soeuer.

Solyman emperor of the Turkes vsed this example, hearing the great cries and acclamations of ioy which the whole armie made vnto *Sultan Mustapha* his son returning out of Persia, he put him to death through ieaiousie, causing him to be strangled in his withdrawing chamber, and his dead body to be cast out before the whole armie: then he made a proclamation, that there was but one God in heauen, and one *Sultan* vpon earth: Two dayes after he put *Sultan Gobe* to death, for that he had wept for his brother; and *Sultan Mehemet* the third brother, for that he fled for feare; leauing but one sonne liuing, to auoid the danger of many lords. We also see that all nations of the earth from all antiquitie, euen when they were guided by a naturall instinct, had no other forme of gouernement than a Monarchie, that is to say, the Assirians, Medes, Persians

The lawes of honour are in greater recommendation to a Monarchie than to a multitude.

Many gouernors hinder one another.

A Monarchie is naturall.

Anno. 1552.

Examples of the
greatest Monar-
chies of the
world.

Sueton. in August.

Sam. 1. 12.
Deut. 33.

Nehem. 10.

Sam. 2. c. 12.

A Monarchy al-
lowed by the law
of God.

A Persians, Egyptians, Indians, Parthians, Macedonians, Celtes, Gauls, Scythians, Arabians, Turks, Moscovits, Tartars, Polonians, Danes, Spaniards, English, Affricans, and Perusians, where there is no mention of any Optimacie, or Popular estate. Yea all the auntient people of Greece and Italie, before they were corrupted with ambition, had none but kings and monarches, as the Athenians, Lacedemonians, Corinthians, Achaeans, Sicyonians, Candiots, Sicilians, Ethiopians, Latines, and Hetrusques, the which haue flourished in arms & laws, foure, fife, six, & seuen hundred yeres; yea some haue continued eight or nine hundred yeares, others twelue or thirteen hundred yeres. And yet some wonder that the Popular estate of the Romans, or the Seigneuries of Lacedemon, and Venice, had continued foure hundred yeres, or thereabouts, after they

B had expelled their kings: doubtlesse they haue reason to maruel, to see two or three Commonwealthes among a hundred, able to continue any time, beeing instituted against the order of nature: but no man is amazed to see many great & mightie Monarchies continue a thousand, or twelue hundred yeares, for that it is according to the right lawes of nature. And although the name of a king were hatefull vnto the Romans, yet many of them in particular affect to be soueraignes: for not many moneths before *Augustus* his birth, it was found out by oracles, that nature should soone bring forth a great Monarch of the Romans. For this cause the Senat decreed, That all infants should be flaine that were to be borne that yeare: but euery one in particular did hinder the carrying of this decree into Saturnes temple, for that euery one (saith the historie) did hope his sonne should be a Monarch. In like sort the princes of Persia being assembled together to consult which forme of gouernment were the better, they concluded, a Monarchy. The same argument was called in question by *Augustus* among his friends, being desirous to liue at rest, and to leaue the state, after that hee had put the nauie of *Marc Antonie* to flight: but it was resolued, That a Monarchy was the most safe without all comparifon, and the effects did verifie it: for in former times the Romans could not liue ten yeares together without ciuill warres, or some sedition: and *Augustus* maintained them quietly in peace almost fiftie yeares, the which continued long after his death. Experience is the mistresse of all things, and as the touchstone, resolues all doubts. Therefore the Capadocians hauing lost their king, they were perswaded by the

D Romans, to take a Popular estate: but they refused it, and demaunded a king: so as the Romans gaue them power to chuse one, and they aduanced *Ariobarzanes*, finding the calamities of Popular states. To conclude, if we seeke authoritie, we shall find that the greatest schollers that euer were, haue held a Monarchy to be the best: as *Homer*, *Heraclitus*, *Plato*, *Aristotle*, *Xenophon*, *Plutarch*, *Philon*, *Apolonius*, *Saint Ierosme*, *Cyprian*, *Maximus Tirius*, and many others. And euen in the law of God, it is said, When as the people shall chuse a king, like vnto other nations, he shall not take a straunger: Whereby he not onely sheweth, that God approueth a Monarchy, teaching a king how hee should gouerne, but also that other nations in those dayes had nothing but Monarchies, as *Samuel* saith. He also made *Moyse* king ouer his people, for so hee is called in the law of God. And although that God gouerned his people for a time without a king, sending them alwaies by an especial fauor certaine captains, as princes & iudges to free them from the subiection of their neighbors, whome the holy Scripture calls Messies, and Sauious: yet was there neuer any Optimacie, or Popular estate among them, but contrariwise they were a long time without either prince or magistrat, beeing guided onely by the grace of God, who for this cause is called their king. And after their returne out of Babilon, they were still subiect to the kings of Persia, or of Egypt, or of Syria: vntill that *Indas Machabeus* of the familie of the Azmoneans, descended from *Aaron* (hauing rebelled against *Antiochus* the Noble, king of Syria) brought the office

fice of high priest, and the soueraigntie vnto his house, who were afterwards subdued by the Romans. For as for their Senat, which consisted of seuentie one, the king making the seuentie two; and the most part of the line of *Dauid*; they busied not themselves in any thing else, but in iudging of causes of great consequence, as of the high priest, or of some tribe, or of crimes of high treason, or of false prophets: & for this cause they were onely called Iudges, whome by the corrupt Greeke word they called Sanedrim. The Caldean interpreter saith, That although they had power to make lawes, euen vnder kings, yet was it no soueraigne authoritie. True it is, that *Rabin Magmon* calling them Doctors or Informers, saith, That they had also power to create twentie three criminal Iudges, whome they called Iudges of soules; and seven Iudges for ciuill causes, whom they tearmed Iudges of goods in euerie citie; and ten Iudges for gouernment, among the which there was one priest, or as *Ioseph* saith, two Leuites assitant to euerie magistrat: and three other Arbitrators, whereof either of the parties did chuse one, and the two that were cholen did name a third. The which I haue particularly set downe, to confute their opinion, which maintaine with *Ioseph* the Historian, That the Hebrewes haue vsed a kind of Aristocraticall gouernment, taking the Senat of seuentie one for soueraigne lords: all whome *Herod*, the eldest sonne of captaine *Antipater* put to death, for that they had condemned him, and had executed him, but for the fauour of *Hircanus* king and high priest, who gaue him his pardon, or at the least staid the decree of the Senat; and afterwards he murthered his Sauour. Which sheweth plainly, that the Senat had no soueraigne power, and that it was no Optimacie: although that *Ioseph* brings in the Iewes complaynig, *Quod Hircanus & Aristobulus formam Reipub. in regnum mutarent*, That *Hircanus*, and *Aristobulus*, had chaunged the forme of the Commonweale into a Monarchy. In my opinion these reasons, with many others (which are not needfull to be here particularly exprest) are sufficient to shew, that of the three kinds of lawfull gouernments, a perfect Monarchy is the most excellent: and among the disordered, the Democratie the most vicious. A lawfull Monarchy (as a strong and able bodie) may easily be maintained: but Popular states, and Aristocracies, as feeble and weake, and subiect to many infirmities, must be preserued by diet and good gouernment. And for that it is not alwayes in the power of wise and politike states-men, to chuse the best kind of gouernment, nor to alter and change the worst, they must in this case doe like vnto skilfull shipmaisters, which yeeld vnto the tempest; they strike their sailes, and cast forth euen their most pretious marchandise, to attaine vnto a safe port. Euen so a wise man that seekes to change a state from bad to good, or from good to better; he must first insinuat with the greatest, and by obsequious obseruation draw them to his will. But if he be not assured to effect it, let him not attempt it: as *Dion* did, who ruined the Tyranny of *Siracusa*, suddenly to erect an Optimacie, by the counsell and aduice of *Plato*: and not able to effect it, he was flaine: so as it became an estate of a turbulent multitude, much more miserable without all comparison than any tyranny. As also the Pithagorians did, who laboured suddenly to change all the Popular estates of *Italie*, into meere Optimacies, hauing not force sufficient to effect it, but they were all flaine, or banished. But if this Popular infirmie cannot be cured by any physicke, it must bee borne withall, beeing better to haue a bad Commonweale than none at all; and attend the time vntill the tyranny of one, of few, or of many, be mounted to the highest precipice or downfall, from whence at the first storme they may be cast downe, or fall of themselves. Else if the tyrant be but shaken, and not quite ouerthrowne, he will commit horrible murthers of the best citisens, to fortifie and settle his tyranny. For a tyrant that hath once escaped the hands of such as had conspired against him, he becomes mad and furious, like vnto a wild beast that sees his owne blood.

Lib. 6. c. 6. antiq.

Ioseph. de antiq.
lib. 14. c. 5.

A tyrant is insupportable that hath escaped any conspiracie.

A blood. We haue too many examples, and without any further search, we haue seene *Cosmo de Medicis* (whome the banished men of Florence called Tyrant, although hee were esteemed of many others to be a good and a wise prince) build forts, & increased his Monarchy with the ruines of such as had conspired against his life and state, and yet neuer any one conspiracie tooke effect. Besides, a Tyrannie is much more insupportable, if the tyrant hath no large limits and great territories: for being poore and hungry, he oppresseth and deuours his subiects continually; & if he be cruell, he soone attaines to his desire: whereas a rich and mightie Monarch hath wherewithall to glut his appetite, and if he be cruell hee will stand in feare that some one in so great a multitude will take reuenge. Euen then as the subiects are happie vnder a great and mightie Monarch, if he haue any sparke of iustice before his eyes: so a small estate is best besiting an Aristocraticall gouernment, who will maintaine their subiects more happily than a poore tyrant should do. We see eigheteene Cantons of the Swissers, besides the Grisons, whose gouernments are Popular, and Aristocraticall, hauing in length from Geneva vnto Constance but two hundred and fiftie thousand paces, and a hundred and threescore in bredth from the Alpes vnto mount Iura, most of which countrey is full of rockes, and very barren; yet haue they maintained their subiects a long time in great happinesse: but if they should enuie and desire their neighbors estate, they should soone loose their owne. And contrariwise the greater the Monarch is, the more goodly and flourishing it is, and the subiect more happie, liuing in an assured peace. But if it chance to be diuided into Democracies, or Optimacies, or into many tyrannies, the people are either tyrannised, or in sedition among themselues, or in continuall warre against their neighbours. Seeing then a Monarchy is the most sure of all Commonweales, and amongst all Monarchies a Royall is the goodliest: let vs say, whether it bee better to haue it by a successiue right, or by election.

The subiects are happy vnder a great Monarch.

CHAP. V.

That a well ordered Commonweale dependeth not either of lot, either of choyce, and much lesse of women; but by descent to be deriued from a most honourable stocke: and that it ought to be giuen but to one alone, without partition.



E T is not enough to say, that a Royall and lawfull Monarchy is better than either a Democratic, or an Aristocratie, except a man say also, such a Monarchy as is by successiue right diuolued vnto the next heire male of the name, and that without partition. For albeit that the lawfull Monarchy be alwayes to bee preferred before other Commonweales, yet neuerthelesse so it is, that amongst Monarchies that which commeth by a successiue right vnto the heires males, of name, neereft in blood, and without partition, is much more commendable and sure, than are the other which come by lot, or by choyce, or will, to the heirs male, but not to the neereft; or vnto the neereft, but yet by the mothers side; or that is the neereft by the fathers side, but yet is to make partition of the whole Monarchy with other the coheires; or else of some part thereof. All which it is needfull for vs by necessary reasons, and examples, to declare; to take away the opinion that many imprint into another princes subiects, and by that meanes entertaine rebellions, so to chaunge well ordered Monarchies, and to moue as it were both heauen and earth. All which they do vnder the vaile of vertue, of pietie, and of iustice. Yea some there are to

What Royall Monarchie is best.

be found, which haue bene so bold, as to publish bookes, and to maintaine against their naturall prince, come vnto the crowne by lawfull succession, That the right of choyce is better in a Monarchy: as was done in England the seventh of September, in the yere 1566, the queene then present at the disputation of the schollers of Oxford; the question being, That it were better to haue kings chosen by election, than by succession. Which new doctrine not a little troubled, not the queene onely, but euen the nobilitie also of that kingdome, then there present. For why, from such beginnings wee see the subiects to proceed vnto mutinies, vnto rebellions, and at length euen vnto open wars. And who is he that would not be moued to heare the inuective speech of an eloquent man, detesting the cruelties, the exactions, and rapines of a tyrant? who neither hath the honour of God, neither the truth, neither iustice, in regard: who driueth away the good men, and ioyneth himselfe vnto the euill: and in the end ioyneth thereunto this exclamation, O how happie is that Monarchy, wherein the estates of the people make choyce of a iust and vpright king, who aboue all things feareth God, and honoureth vertue: who regardeth the good, and chastiseth the euil: who vnto the honest appointeth due rewards, and vnto the wicked condigne punishments: who abhorreth flatterers, who keepeth his faith and promise; who banisheth the blood suckers and deuisors of new exactions out of the court, who spareth his subiects blood as his owne, who reuengeth the wrong done to others, and pardoneth the iniurie done vnto himselfe; and who in briebe more esteemeth of religion and vertue, than of all other things in the world. And so hauing set these prayes, with the counterpoise of a tyranny repleat with all vices, the vulgar sort forthwith conceiue an opinion, that there is nothing more happy, than the Monarchy which falleth into election: yea and not they of the simpler sort onely, and such as haue small vnderstanding in the knowledge of matters of policie, but euen they also which are accounted of all others the most sufficient; are oftentimes deceiued, and much mistaken, in regarding nothing but the apparant good on the one side, without respect vnto the innumerable absurdities and inconueniences which are to be found on the other. For euen *Aristotle* himselfe is of opinion, That Monarchs should be created by election, calling the people barbarous, which haue their kings by right of succession. And for which cause he deemed the Carthaginians more happy than the Lacedemonians, for that these had their kings by succession from the fathers to the sonne in the stocke and line of *Hercules*, whereas the others still had them by election and choyce. But so he might call the Assyrians barbarous, the Medes, the Persians, the Egyptians, the people of Asia, the Parthians, the Armenians, the Indians, the Affricans, the Turkes, the Tartars, the Arabians, the Moscouites, the Celtes, the Englishmen, the Scots, the Frenchmen, the Spaniards, the Perusines, the Numidians, the Ethiopians; and an infinit number of other people, who still haue, and alwayes before had, their kings by right of succession. Yea and wee find in Greece (the countrey of *Aristotle* himselfe) that the Athenians, the Lacedemonians, Sicyonians, the Corinthians, the Thebans, the Epirots, the Macedonians, had more than by the space of six hundred yeares, had their kings by right of lawfull succession, before that ambition had blinded them to chaunge their Monarchies into Democracies and Aristocracies. Which had likewise taken place in Italie also, whereas the Hetruscians and Latines for many worldes of yeares had their kings still descending from the fathers to the sonnes. Now if so many people and nations were all barbarous, where then should humanitie and ciuilitie haue place? It should be onely in Polonia, in Denmarke, and in Sweden: for that almost these people alone haue their kings by election: and yet of them almost none, but such as were themselues also royally descended. *Cicero* saith, humanitie and courtesie to haue taken beginning in the lesser Asia, and from thence to haue

This question was indeed then in Oxford disputed, & the right of succession notably defended, and before election preferred.

To possesse the people with an opinion, that haue their king by election, is better than to haue him by succession, a thing most dangerous vnto soveraigne princes.

Most people to haue had their kings by succession, rather than by election, contrary vnto the opinion of *Aristotle*.

A haue bene diuided vnto all the other parts of the world: and yet for all that the people of Asia had no other kings, but by succession from the father to the son, or some other the neereſt of kin. And of all the auncient kings of Greece, we find none but *Timondas*, who was choſen king of Corinth, and *Pittacus* of Nigropont. And at ſuch time as the royall name and line failed, oftentimes the ſtrongeſt or the mightieſt carried it away: as it chanced after the death of *Alexander* the Great, who was in right line deſcended from *Hercules*, and the kings of Macedon, who had continued aboute five hundred yeares: whole lieutenants afterwards made themſelues kings, *Antipater* of Macedon, *Antigonus* of Asia the leſſe, *Nicanor* of the vpper Asia, *Lysimachus* of Thracia: ſo that there is not one to be found among them, which was made king by election. So that euen Greece it ſelfe (the nurſe of learning & knowledge) ſhuld by this reaſon, in the iudgement of *Ariſtoile*, be deemed barbarous. Howbeit that the word *Barbarous*, was in auncient time no word of diſgrace, but attributed vnto them which ſpake a ſtrange language, and not the naturall language of the countrey. For ſo the Hebrewes called alſo the auncient Egyptians, then of all nations the moſt courteous and learned, *Barbarous*, that is to ſay, *כנעני*, for that they vſed the Egyptian tongue, and not the Hebrew.

Pſal. 113.

But in all Monarchies which go by election, there is one daunger thereunto alwaies incident, which is, that after the death of the king, the eſtate remaineth a meete Anarchy, without king, without lord, without government, ſtill in danger of ruine; as a ſhip without a maiſter, which oweth the wracke of it ſelfe vnto the firſt ſtorme or wind that ariſeth: theeeues and murderers in the meane time at their pleaſures committing their murders, and ſuch other their moſt hainous outrages, with hope of impunitie; as the common manner is after the death of the popes, of the kings of Tunes, and in former times after the death of the Sultans of Egypt. For there haue bene ſuch as haue committed fiftie ſundrie murders, and yet haue alwayes had the popes pardon therefore: the popes at their firſt entrance into the papacie, ſtill pardoning all men their offences whatſoeuer: and ſo murders and reuenges commonly referred vnto the popes death, remaine then vnpuniſhed. So that in the yeare 1522, there were two executed at Rome, whereof the one tearmed himſelfe *Pater noſter*, and the other *Aue Maria*, who at diuers times had ſtabbed and murdered an hundred and fixteene men, as was then proued.

Great dangers incident vnto an eſtate or kingdom, where the king or other ſoueraigne prince, is to be choſen by election.

The great diſorders in Rome, in the vacancie of the papacie, and before the new pope be choſen.

D And the firſt thing that they commonly doe, the Papall ſeat being vacant, is to breake open the priſons, to kill the gailors, to enlarge the offenders, to reuenge iniuries by all meanes: which continueth vntill that the colledge of cardinals haue agreed of a ſucceſſor, wherein ſometime they haue bene at ſuch diſcord and variance among themſelues, as that the ſeat hath bene vacant two yerres and foure moneths together; as it chanced after the death of *Clement* the 5: yea & ſometime 10 yerres, as after the election of the duke of Sauoy ſurnamed *Felix*. We read alſo oftentimes two or three popes, and as many emperors; to haue bene choſen at once; and the empire to haue ſtood vacant a yeare or two together, yea whole eightene yeares, after that *William* countie of Holland the emperour, was ſlaine. And albeit that the princes electors made offer of the empire vnto the king of Spayne, *Alphonſus* the tenth, yet ſo it was that he would not accept thereof, for the manifeſt daunger that he was to put himſelfe into by taking vpon him ſuch an eſtate, expoſed vnto the will and pleaſure of the ſubiects, vnto the enuie of princes, and the violence of murderers: all which time of vacancie the wicked neuertheleſſe are out of frame in all kind of looſe libertie. Which in ſome ſort to remedie, the Polonians (who haue their kings by election) double the penalties for the offences committed during the choyce of the king, as I haue learned of *Zamoſchy* now Chauncellour of Polonia, but as then ambaffadour in Fraunce. So wee read alſo that during the elections of the Sultans of Egypt (before it was by the Turkes ſubdued, and

by them vnto their empire vnited) the poore subiects, and the best townes and cities in the whole kingdome, were sacked and rifled by the Mammalukes: vntill that some one of them by the consent of all the rest was chosen Sultan. F

Now if some (to remedie the matter) shall say, That in the meane time there might a gouernour be established: he is therein deceiued, it being a no lesse hard matter, to make choyce of a lieutenant or gouernour, than of a king. But admit he might so be made without any contradiction, by the consent of all the estates to whome it belongeth, to name their gouernour, yet who should be the suretie and warrant for his faith? Who should let him (hauing the power in his hand) to inuade the estate? who should disarme him being not willing thereunto? Wee see how *Gostanus* father of *Iohn* king of Sweden behaued himselfe, who of a gouernour made himselfe a king, without expecting of any other election at all, and so lest the regall power by strong garrisons confirmed vnto his posteritie. And to leaue the gouernment vnto the Senat, as they do in Polonia; and did of auntient time in Rome, is no lesse daungerous, least in the meane time some of the stronger and bolder sort should possesse themselues of the forresses and stronger places: as did *Pompey Columna*, and *Anthonie Sauelle*, who ceized vppon the Capitoll at Rome, proclaiming vnto the people libertie. And in the time of such vacancie ciuill warres and dissentions are impossible to be auoided, not only amongst the most warlike nations, but euen amongst the church men also: so that it was neuer possible to prouide so well, but that two and twentie popes had their heads chopt off, and many moe of them by strong factions driuen out of their seats: not to speake in the meane time of them (in number almost infinit) who haue by poyson (the common death of the bishops of Rome) perished. Yea we read that euen in the primitiue church, *viij.* in the yeare of our Lord 356, there were six hundred persons slaine in the verie citie of Rome, about the election of *Damasus* and *Vrsicinus*, whether of them should bee pope. Neither was that onely done at Rome, but almost in euerie towne and citie, which had in them any bishops, all places were so filled with so many of Laodicia, that from thence forward it should not be lawfull for the people, to meddle with the choice of the bishops and prelats, or the bestowing of the ecclesiasticall preferments. Wherefore *Athanasius*, and *Augustine*, both bishops, appointed whome they would haue to succeed them in their bishoprikes, the one at Alexandria, and the other at Hippona. What should I speake of the Roman ciuill warres, and after them of the Germans, about the choice of their emperours? their bookes, their histories, and all their monuments, are full thereof. Wherein we cannot without indignation and horror, remember the miserable wasting countries, the mutuall slaughter of citisens, and sacking of most noble cities, mischiefs still done either by the one side or the other. G

And yet there is another inconuenience also, not to be omitted, which is, That kingdomes going by election, haue nothing in them which at one time or other is not subiect vnto all mens spoiles: so that euen the publike demaines, and such as before were common, and whetein euerie man had a common interest: we see them in a little time conuerted euen vnto particular mens vles: so as we see it to haue happened in the demaine of *Saint Peter* at Rome, as also in the demaine of the German empire. For the princes elect knowing wel that they cannot long raigne, nor that they cannot leaue vnto their children any thing of the estate, more than what they thinke they can by deceit and fraud purloine and hold, care not to giue any thing vnto the magistrats their friends: or by open sales and donations, to make their owne profit of the publike reuenues and possessions. So *Rodolph* the emperour for money exempted all the towns and cities of Tuscanie from the fealtie and obedience which they ought vnto the German empire: *Robert* also the emperour, gaue three of the imperiall townes vnto his sonne: H

No lesse dangerous in the vacancie of a kingdome, to make choyce of a foueraigne gouernor than of a king himselfe.

Many popes slaine or poisoned, about their election.

Why the choyce of bishops, and ecclesiasticall preferments was taken from the people.

The publike demaine most commonly dissipated or embesieled by princes electiue.

K

A sonne: *Henry* the first ceased vpon Saxonie: *Fredericke* the second enfranchised *Nuremberg*: *Otho* the third enfranchised *Isne*: *Lewes* of *Bauiere* did the like for the towne of *Egze*: *Henry* the fift sold all he could: and *Charles* the fourth being not able to pay the hundred thousand crownes which he had promised to euery one of the princes electors, sold vnto them all the tributes of the empire, to haue them to chuse his sonne *Charles* emperor, as he indeed was: but afterwards againe thrust out euen by the same princes who had before made choice of him. So that the principall and strongest sinewes of that Commonweale being cut in sunder, the whole body of the empire became so weake and feeble, that *Charles* duke of *Burgundie* doubted not to wake warre vpon the *Germaine* princes.

B Another point there is also well worth the consideration, which is, That a man of base degree suddenly mounted vnto the highest degree of honour, thinketh himselfe to bee a god vpon earth. For as the wise *Hebrew* saith, There is nothing more intollerable than the slaue become a lord. And on the other side such is the feruent loue of the father toward his sonnes, that he will rather confound heauen and earth together (if he haue power so to do) than not to leaue vnto them the crowne, but to let it rest in the voyces and choice of the ignorant people,

Nothing more intollerable than a man of base degree suddenly mounted vp vnto great honor.

But let vs yet go further, for why these are not the greatest inconueniences. For where the people is to chuse their king, they must either make choice of a stranger, or of a naturall subiect: Now if choice bee to bee made out of the naturall subiects, then euery the most impudent and audacious fellow will by all right and wrong seeke to aspire vnto the soueraigntie: and if there bee many of them of equall power and grace, it is impossible but that there should be great factions, wherein the people should become partakers: or in case they were not equall, neither in vertue nor wealth, yet so it is that they would presume themselues to be equall, and neuer agree one of them to obey another, but wishing rather to endure the commaund euen of strange and wicked princes, than of another subiect their equall. As it happened in *Armenia* (as *Tacitus* reporteth) where the nobilitie could endure none to bee their king but a meere stranger. And of late in *Polonia* *Sigismundus Augustus* the king beeing dead, and a controuersie arising amongst the nobilitie, euery one of them longing after the kingdome; a decree was made whereby all the naturall subiects were embarred from obtaining of the kingdome: as I learned of the *Polonian* ambassador, whom I was commanded to attend after they were entred into the confines of this kingdome, to conduct them vnto *Henry* the king.

Another great inconvenience about the election of soueraigne princes.

No accord where euery man would be a lord.

D And in the remembrance of our fathers when as the *Aegyptian* Sultans were chosen by the voyces of the pretorian souldiers or *Mammalukes*, & they not able to endure one of them to be greater than another, had slaine diuerse of their Sultans: they at last to stint the strife, by their common consent sent their ambassadors vnto *Campson* king of *Caramania* to become their Sultan, and to take vpon him the kingdome of *Aegypt* being by them offered him. With the same calamities the *Germaine* princes also troubled, after diuerse murders of the emperours of their owne country, oftentimes made choyce of strangers, yea and those right small princes: as of one *William* earle of *Holland*, and of *Henrie* earle of *Lutsembourg*, one while also making choice of the king of *England*, and another while of the king of *Spaine*: yea, sometime such forraigne princes refusing that same empire so offered them: For so *Alphonfus* the tenth king of *Spaine* refused the imperiall crowne by the princes electors offered him, which afterwards stood emptie aboue eightcene yeares; as we haue before sayd. *Sigismund* also the first king of *Polonia*, refused the kingdome of *Hungarie*, of *Bohemia* and *Denmarke*, being thereunto inuited by the Estates. So also *Lewes* the twelfth refused the

The imperiall crowne of diuerse strange princes refused.

Seignorie of Pisa: and the antient Romans (as saith *Appian*) refused diuerse people F
 which would haue submitted themselues vnder their obeyfance . But admit that the
 strange prince do not refuse a kingdome so offered him : which if it bee farre off from
 the bounds of his owne kingdome, hee must than either leave his owne , or gouerne
 the strange kingdome by his deputies or lieutenants: both things absurd and incon-
 uenient . For who is he so foolish that had not rather to looke to his owne things
 than to other mens ? and what nation or people can with patience endure to be gouern-
 ed by deputies ? so to haue him whom they would not, and to want him whom they
 made choice of . So *Lewes* king of Hungarie at the request of his wife daughter to
Casimire king of Polonia, tooke vpon him the kingdome of Polonia conferred vnto
 him by the voyces of the people : into which kingdome he was inuested, and receiued G
 with the greatest acclamations, and applauses of all men that might be : who yet short-
 ly after, whether it were for that he found himselfe offended with the sharpnesse of the
 Polonian aire : or that he was allured with the pleasures and delights of Hungarie, or
 that he was by the vowes and requests of his owne people recalled : returned home,
 leauing his wife vnto the Polonians (her countremen) with a traine of the Hungari-
 ans to attend vpon her : where so it was that the Polonians mindfull of the Great *Ca-*
simire her father, for a space endured the womans soueraigntie ; but could in no wise
 endure her traine of Hungarians . And so also not long ago *Henry*, *Charles* the French
 kings brother called vnto the kingdome of Polonia, his brother being dead , withall
 speed returned vnto his owne naturall kingdome : howbeit the Polonians would by H
 no meanes endure the gouernement of his deputies or lieutenants, but by voyce chose
 vnto themselues a king : although that they could by no right or reason do so, but by
 the consent of *Henry*, vnto whom they had giuen all the soueraigne rights, whereunto
 they had not annexed any clause or condition (when as question was of the king-
 dome of France to fall vnto him) that hee should not in his absence by his deputies or
 lieutenants gouerne that kingdome bestowed vpon him : as hath bene alwayes lawfull
 for all princes to do . For it is an old axiome, a donation once consummate and per-
 fected not to admit any moe conditions . But admit both the kingdomes confine to-
 gether, as doth Polonia and Hungarie ; what doubt is there but that he will, if he can,
 make one kingdome of two ? or change an Aristocratique estate into a right Monar- I
 chie : yea, and that by force of armes , if the nobilitie or people shall withstand him,
 whereof we haue an example of the Emperour *Charles* the fifth , who after the over-
 throw of the Germaine princes had changed the Aristocracie of the Germaines into
 a kingdome, and had caused his sonne *Philip* to be sent for out of Spaine into Germa-
 nie, to haue made him king of the Germaines, had not *Henry* the second the French
 king most mightily withstood him, and so broken his designs . The occasion of *Iu-*
lius Pflugius the Bishop is yet extant wherein hee labourerth to persuaide that one thing
 especially, viz. that the most sure foundations of the Germaine empire might be layd.
 And in case that the prince cannot ioine the kingdome which he hath got by election
 confining vpon him, vnto his owne naturall kingdome : yet will he so much as in him
 lieth draw all the profits, fruits, and reuenues of the strange kingdome vnto his owne : K
 and hauing taken away the voyces from the nobilitie whom hee hath in his power,
 shall appoint or cause them to chuse whomsoever pleaseth him to succeed him : as the
 kings of Denmarke, of Thunes, yea and the Germaine emperours also themselues by
 a custome of long receiued from their ancestors haue vsed to do : in such sort as that the
 rights of elections by voyces , seeme to be vtterly taken away . So *Ladislaus* king of
 Bohemia, the sonne of *Albertus*, and the emperour *Fredericke* the third his nephew,
 by the voyce of the people chosen king of Hungarie by a certaine bond of fealtie, left
 that

A strange king-
dome hard to be
gouerned by lieu-
tenants or depu-
ties.

Charles the fifth
about to haue
made his sonne
Philip king of
Germanie.

Kingdomes ele-
ctiue oftentimes
changed into
hereditarie.

- A that kingdome vnto his nearest kinsmen all most hereditarie. And albeit that *Matthias Corvinus* the sonne of the noble *Huniades* (*Ladislaus* being dead without issue) by the voyces of the people obtained that kingdome (they alwaies pretending that the right of the choice of the king belonged to them; and that the succession of the next of kinne was not to take place) yet for all that *Fredericke* his nearest kinsman was about both with his owne power, and the strength of the whole empire to haue inuaded that kingdome, and had vndoubtedly so done, had not *Matthias* by his promise put him in hope of the kingdome for himselfe and his posteritie: if he should himselfe die without issue, as by chance he did. Howbeit, yet neuerthelesse that *Matthias* being dead, the Hungarians made choice of another *Ladislaus* king of Bohemia and Polonia also: without regard of the conuention and agreement before made with *Fredericke*, which was the cause of a most great and cruell warre for the kingdome of Hungarie: which could by no meanes be appeased: vntill that by all the degrees of the people of that kingdom it was decreed that it should from thenceforth be hereditarie: and that after the death of *Ladislaus Maximilian* the sonne of *Fredericke* should succeed in that kingdome, as indeed he did: But his nephew being left vnder age, and the estates of the kingdome pretending them to haue the right to make their choice of his gouernours; against *Fredericke* who sought to step into the gouernement of Hungarie, and to take vpon him the guard and protection of the yong king his nephew: the people of Hungarie, yea, and the sister of *Ferdinand* (the yong kings mother) chose rather to cast themselues into *Solyman* the great Turkes lappe, and so to betray both king and kingdome, rather than to endure the gouernement of the emperour *Ferdinand* in such sort; that they for the maintenance of the right of their election, are now fallen into the perpetuall seruitude of the Turke: hauing not onely lost the right of their election, which they so strue for; but in hazard also to loose their lawes, libertie, and religion: as the common custome of all strange princes is (as much as in them lieth) to change the lawes, customes, and religion of the people by them subdued, or oppressed, and to enure them, or otherwise to enforce them to embrace and follow their fashions, manners, and religions: and was as should seeme the principal cause why God forbid his people to make choice of a strange prince to raigne ouer them.
- D And yet in matter of election the way being open to manie competitours, if the matter be to be tried by force, alwayes the most wicked and deceitfull: or else the most hardie and aduenterous, put all vpon hazard to attaine thereunto: And if it hap the most vertuous to be chosen, his life is still in danger of the competitours being of greater power: as in Germanie it hath bene seene: where within this 360 yeares, since that Monarchie fell into election, there haue bene eight or nine emperours slaine or poysoned, and among others, *William* of Holland, *Rodolph*, *Albert*, *Henry* the seuenth, *Fredericke* the second, *Lewis* of Bauaria, *Charles* the nephew of *Henry*, and *Gunther*: besides all them who were most shamefully thrust out of the imperiall seate. And of 15 Sultans which were chosen kings of *Ægypt*, there were seuen of them slaine: namely,
- E *Turqueman*, *Melafschall*, *Cothus*, *Bandocader*, *Mehemet*, *Cercaße*, and *Giapalt*. And of the Romane emperours after the death of *Augustus*, there were seuen one after another massacred, poysoned, or strangled: and that three of them in one yeare, oppressed onely by the conspiracie of citifens. Yea, the pretorian souldiers sometimes slew the emperours to haue a new, onely vpon hope of gifts and largesses. But still hee of whom the Senators made choice, displeased the legions and men of warre: yea oftentimes euery armie created an emperour, in such sort as that at one time there were thirrie Romane emperours chosen in diuerse places, and among them one woman, viz. *Zenobia*: all the empire being in ciuill warres and combustion who should carry away the state,

The Hungarians for the maintenance of their electiue right now fallen into the perpetuall seruitude and slauerie of the Turk.

Princes by election created still to be in great danger.

Diuerse electing emperours and princes murdered, or els shamefully depofed.

No assurance in the estate where the succession is not established.

The great care the good Roman emperours had for the certaintie of the succession, lest after their death the empire should fall into the dangers ensuing vpon election.

Great regard had of succession, es- uen in kingdoms going by election.

Kingdomes going by succession how they sometimes fall into election.

no end thereof being to be found vntill that the rest were by the power of one all oppressed. Neither was there any assurance in the estate, if the sonnes either lawfull or adoptiue succeeded not their fathers without election, so as did *Tiberius*, *Titus*, *Traian*, *Adrian*, *Antoninus Pius*, *Marcus Aurelius*, and *Commodus*. But if any of the emperours gaue not order for the adopting of his successour, in case hee had himselfe no children, the commonweale alwayes fell againe into ciuill wars. And for this cause the emperour *Adrian* fearing lest the estate should fall into election, he himselfe hauing no children, thought it not enough to adopt *Antoninus Pius*, but also caused him to adopt *Marcus Aurelius*, and *Ælius Vetus*: following therein the wisdom of *Augustus*, who to preuent the warres oftentimes arising about election, adopted his two little nephews *Catus* and *Lucius*: who both dying without issue, hee adopted also his third nephew *Agrippa*, and with him *Tiberius* his sonne in law: yet with condition that hee should first adopt *Germanicus*. And they which were so adopted and appointed heires of the empire, were called *principes iuuentutis*, or princes of the youth: and afterward of the Germanes; *reges Romanorum*, or kings of the Romans: to the end that euen in estates and Monarchies going by election, there might yet be some certaine successor. For so *Henry* the third the emperour whilest he yet liued caused his sonne to be chosen king of the Romans, and his grand child to be also by him adopted. And *Charles* the fourth after that caused his sonne *Wenceslaus* by the electors to bee designed to the empire, but not without a great summe of money: vnto whome succeeded his brother *Sigismund*, who afterward adopted his sonne in law *Fredericke* the third; who againe caused *Maximilian* his sonne to be adopted emperour. Neither was it to be doubted but that *Philip*, *Maximilian* his sonne, should haue reigned ouer the Germanes, had not his vntimely death preuented his fathers hope. And all bee it that the estates and princes of the empire, the imperiall seate being as then vacant, had many great princes competitors in the same; yet so it was that they deemed the grand child of *Maximilian* (*Charles*, then a very yong man, and neereft vnto *Maximilian* in blood) by a certaine successiue right worthie to be preferred before the rest of the princes. And allbeit that the Bohemians, the Polonians, the Hungarians, Danes, and Tartars, will by no meanes suffer the election of their kings to bee taken from them; yet they thinke that their kings sonnes ought still in their choice to be preferred before all others, that so by the benefit of succession all the occasions of ciuill wars might bee preuented and taken away. For which cause *Sigismundus Augustus* king of Polonia and last of the house of Jagellon, hauing but two sisters, assembled the estates of the kingdome to consult concerning his successor; hauing before vnited the dukedome of Littuania vnto the kingdome of Polonia: whereunto for all that the estates would not consent, fearing to loose their right of election; or that he should haue given them a king contrarie to their good liking. And at the same time as it were, the parliament of England was holden at London in October 1566, where the estates preferred a request vnto the Queene for the prouiding of a successor vnto the crowne, to auoid (as they sayd) the euident dangers whereinto the kingdome was like to fall, if it were not foreseene and prouided for; and that they were resolued not to speake of any subsidie, or other thing whatsoeuer, vntill that matter were determined. With which request howbeit that the Queene was much troubled; saying, That they would make her graue before she were dead: yet so it was that she promised them therein to follow the counsell and aduise of such as were the wisest in her land. For a kingdome going by succession still falleth into election when there is none left neere of kin, neither of the fathers side nor of the mothers; in which case it is necessary to prouide before that the matter so fall out; whereas otherwise the estate is in great hazard to be quite ouerthrowne: as it happened vn-

A to the estate of Milan in the yeare 1448, after the death of *Philip Maria* the last of the heires male of the house of Anglerie, which in successiue right had holden Milan foure hundred yeares: when as the people seeing themselves in full libertie without any lord or soueraigne, resolved to maintaine a Popular estate: razed the castle Ione, burnt the last dukes testament, chose twelue Senators; and after that hauing made choice of *Charles Gonzaga* for their generall, most cruelly butchered all them which tooke part with *Frances Sforce*, who being a man but basely borne aspired to the soueraigntie, as hauing married the base daughter of *Philip* the last duke, as also by the adoption which the duke had made of him. At which selfe same time the emperour *Fredericke* the third claimed that dutchie, as a fee deuolued to the empire for default of heires males. And *Charles* of Orleans on the other side claimed it as belonging vnto him in the right of his mother *Valentine*, both the naturall and lawfull sister of the last duke. During which quarrels the Venetians (as their vsuall manner is) to fish in troubled water, without any right at all, possessed themselves of Cremona, Laude, & Placence, all members of the dutchie of Milan. The duke of Sauoye tooke also Nouatre and Versel: *Sforce*, *Paue*, and *Dertnone*: and the people of Milan vnable now to mannage their estate at home, or to defend their territorie abroad; and yet abhorring the gouernement of one, and not well knowing vnto what Saint to commend themselves, voluntarily submitted themselves with their citie vnto the Venetians, by whom for all that they were reiected. So that in fine all the Christian princes and states their neighbours, were vp in armes and together by the eares for the estate; and for all that the last duke prouided not for his successor as he ought to haue done, in following that which was resolved and agreed vpon at the treatie of the mariage made betwixt *Lewes* duke of Orleans and *Valentine* his sister: neither in taking vnto him *Charles* of Orleans his nephew, and right heire of his dukedome so to haue adopted him, and brought him vp neere vnto his person, but adopted *Sforce* who had married his base daughter, being but the first gentleman of his house.

The dutchie of Milan dismembred the line of the viscounties of the house of Anglerie failing.

D But the royall stocke being extinct, the last thereof may by right adopt vnto himselfe his successor, except the nobilitie or people claime the right of the choice of their prince to belong vnto themselves. For if the last prince of the blood shall appoint no man to succed him, the soueraigntie is to fall vnto the people. It beeing a common matter for Monarchies neuer to fall into election, but when the Monarch dying without heires hath not prouided a successor. For so the line of *Charles* the great beeing viterly extinct, when as the last king of the Germanes had adopted none to succeed him, *Henry* the Faulconer duke of Saxonie was by generall consent of all men created emperour: wherein for all that the Germane writers are at variencie among themselves: one of them thinking *Arnulphus*; and another *Charles* the sonne of *Lewes* king of the Germanes to haue bene chosen emperour, and that not by the voyces of the people, but of the fittie princes onely: and that electiue right to haue bene at length conferred vnto seuen of them who were thereof called the princes electors: and that to haue happened about the yeare 1250. But let vs now come vnto our owne histories. Many there be which haue reported the kings of France in antient time to haue bene created by choyce, and so that kingdome to haue fallen into election: but all that vntruly. For why that must needs haue bene done in the raigne of the Merouignes, or the Carlingues, or of the Capets.

Whether the last of the royall stocke may by right adopt vnto himselfe his successor.

About what time the seuen princes electors were first appointed for the choice of the emperour. The error of the which haue thought the kingdome of France to haue in antient time gone by election, reiected.

Now concerning the first line which is of the Merouignes; *Agathius* a Greeke author of great authoritie and antiquitie (for he flourished about the yeare 500) writeth the French nation hauing chosen the best forme of a Commonweale that was possible (that is to say the royall Monarchie) to haue therein surpassed all their neighbours.

bours: neither to haue had any other kings but by the right of succession. And the same author in another place sayth, *Theodebert* the sonne of *Theodoric* and nephew to *Clodouens*, being yet vnder age and the gouernement of his tutor, to haue bene called vnto the crown according vnto the maner and fashion of their ancestors. *Cedrinus* also another Greek author, and he also very antient (who writ in the yeare 1058 in the time of *Philip* the first the king of France) reporteth the French men to haue had no other kings, but by a successiue right, after the antient manner of their ancestors. Wherein he sheweth the aforesayd three lines of the kings of France to haue vsed the right of succession. And if so bee that first *Charles*, and after him *Carlomaine* the children of *Pipin* caused themselues to be both chosen by the nobilitie (as indeed they were) yet was not that done but onely so by the power and fauour of the nobilitie to assure their estates, & to stop the mouths of such as were yet left of the house of the *Merouignes*, as in like case some of them did also of the house of *Capet*, who had thrust out them of the house of *Charlemaigne*. As for that which is reported of *Otho*, him by the consent and voyces of the nobilitie to haue bene created king: he at the time of his death hauing called together the princes of the kingdome, protested him to haue so done, not so much that he himselfe might reigne, as to keepe the kingdome and the Commonweale wherewith he was put in trust, in safetie vnto *Lewes* the Stammerer to whom he was appointed tutor. *Robert Otho* his brother in chalenging the kingdome as it were in the right of succession after him, was slaine in the battell of Soissons. *Rodolph* also sonne vnto the duke of Bourgundie caused himselfe also to be chosen, to exclude *Charles* the Simple, from whom in the castle of Berone wherin he then was kept prisoner, *Harbert* countie of Vermandois had in fauour of this *Rodolpe* extorted his resignation of the crowne. And after that *Hugh Capet* had wrested the scepter out of the hands of *Charles* of Loraine, he caused his sonne *Robert* whilest hee himselfe yet liued, to bee crowned; and he likewise his sonne also, *Henry* the first; and *Henry*, his sonne also: and so vntill that one of the daughters of *Baldwin* earle of Holland and regent of France, descended from the eldest daughter of the afore said *Charles* of Loraine, and so lineally from *Charlemaigne*, was married vnto *Philip* the first, and was mother vnto *Lewes* the Grosse: wherby the secret grudgings & hatred of the people against the *Capets* were appeased, & the fire of ioy and blisse kindled, to see one of the race of *Charlemaigne*, and so of the bloud of Saint *Arnulph*, ioyned with the stocke of *Capets*. And if any coniecture there be, wherfore any man should thinke the kings of France to haue bene by election created; it may best seme to be drawne from the manner of the coronation of the kings: For before the king that is to crowned take his oath, the two Bishops of Laon and Beauuois standing on both sides of the king, and lifting him vp a little from his throne, and then turning themselues vnto the people there present, demand of them whether they will haue that man to reigne ouer them or not: wherunto they giuing their consent, the Archbishop of Reims taketh his oath. So that they which write the kingdome of France to go by election, haue had no further regard but onely vnto the manner and forme of the chusing of the king (if it ought at all to bee called a choice) the manner whereof is yet to bee seene in the Librarie of Beauuois, and which I haue also taken out of the Librarie of Rheimes, and deserueth well to be set downe at large, whereby it is to bee vnderstood, in what sort our kings haue bene in antient time crowned.

The title of the antient written booke of Rheimes is this, LIBER IULIANI AD ERRIGIVM REGEM: *The booke of Iulian vnto king Errigius*: (meaning *Errichius* the father of *Philip* the first.) The words of the booke are these, Anno 1058 indictione xij Henrico regnante xxxij, & iij Cal. Iunij, in die Pentecostes Philippus

The ancient manner of the coronation of the kings of France.

- A** lippus rex hoc ordine in maiore ecclesia ante altare sanctæ Mariæ à venerabili Archiepiscopo consecratus est incoacta Missa antequam epistola legeretur, Dominus Archiepiscopus vertit se ad eum, & exposuit ei fidem catholicam. sciscitans ab eo utrum hanc crederet, & defendere vellet: quo annuente delata est eius professio; quam accipiens ipse legit, dum ad huc septennis esset, eique subscripsit: erat autem professio eius hæc: EGO Philippus, Deo propitiante mox futurus rex Francorum, in die ordinationis meæ promitto coram Deo, & sanctis eius, quod unicuique de vobis commissis canonicum priuilegium, & debitam legem, atque iustitiam conseruabo, & defensionem adiuuante Domino, quantum potero, exhibebo, sicut rex in suo regno unicuique Episcopo & ecclesiæ sibi commissæ per rectum exhibere debet: populo quoque nobis credito me dispensationem legum in sui iure consistentem, nostra auctoritate concessurum. Qua perfectâ posuit eum in manus Archiepiscopi, ante stante Archiepiscopo Suesionensi, &c. Accipiens Archiepiscopus baculum S. Rhemigij, differuit quietè & pacifice, quomodo ad eum maximè pertineret electio regis & consecratio, ex quo sanctus Rhemigius Ludovicum baptizauit & consecrauit. differuit etiam quomodo per illum baculum hanc consecrandi potestatem & totum Gallie principatum Ormisdas papa sancto dederit Rhemigio: & quomodo victor Papa sibi & ecclesiæ suæ concesserit. Tunc annuente patre eius Henrico, elegit eum in regem post eum. Legati Romana sedis, cum id sine Papæ nutu fieri licitum non esse dissentirent ibi sit: honoris tamen & amoris gratia tum ibi affuerunt: Legati Lotarius Soli, Archiepiscopi, Episcopi, Abbates, Clerici; Dux Aquitanie, filius, Legatus Ducis Burgundiæ, Legati Marchionis, & Legati Comitis Andegauensis: post Comites Vandensis, Vermadensis, Ponticensis, Suesionensis, Aruernensis, post milites & populi tam maiores quàm minores uno ore consentientes laudauerunt, ter proclamantes: *LAVDMVS, VOLVMVS, FIAT.* In the year 1058, the twelfth of the indiction, of the raigne of king Henry the xxxij, the iiii of the Calends of Iune, on Whitsunday, king Philip was in the great church, before the altar of blessed Marie, by the most reuerend Archbishop in this order crowned: Masse now already being begun, & before the reading of the Epistle: the Lord Archbishop turning himselfe vnto him, declared vnto him the Catholike faith, asking him whether he beleued the same, and would also defend it? Whereunto he graunting, his profession of the same was brought forth, which he taking read it, (being as then but seven yeares old) and subscribed to the same, whose profession was this, I Philip, by the grace of God, by and by about to be the king of France, vpon the day of my inuelling do promise before God and his saints, to keep canonicall priuilege, with due law and iustice to euery one of you the committies: as also so much as in me lieth by the helpe of God, to defend you, as a king in this kingdom of right ought to doe vnto euerie Bishop, and to the church committed to his charge: as also by our authoritie to graunt vnto the people committed vnto vs, the administration of our lawes, standing in their full power. Which profession so read, hee put it into the Archbishops hands, &c. (Here are twentie Bishops and many Abbats by name reckoned vp, and immediatly after) The Archbishop taking the staffe of Saint Rhemigius, calmedly and quietly declared, How that vnto him especially belonged the choise and consecrating of the new king, euer since that Rhemigius baptized and consecrated king * Lewes: declaring also, how by that staffe of Hormisdas the pope gaue vnto Saint Rhemigius this power of consecrating the kings, with all the kingdom of Fraunce: and how the Pope Victor graunted the same also vnto him and his church. And so his father Henrie consenting thereunto, chose him to bee king after him. The Legats of the See of Rome hauing there reasoned it, not to be a thing lawfull without the licence of the Pope, were yet for loue and honours sake there present: as were also other ambassadours, as Lotarius Soli, with other Archbishops, Bishops, Abbats, Clerks, the young Duke of Aquitaine, the ambassadours of the Duke of Burgundie, the ambassadours

The archbishops of Rheims pretend to haue the choise of the French kings.

* This Lewes is rather to be called Clodoueus, otherwise in ancient time called Hludwich.

favours of the Marquesse, the ambassadors of the Earle of Angiers, after them the Earls of Vandosme, Vermandoise, Soissons, and Aunerne: after that the souldiors, and people, as well the greater as the lesser, with one consent commended him, crying out thrice aloud, *We prayse him, We will haue him: Let it be done.* These things wee haue word for word written, the which were neuer yet put in print. They therefore which thinke the kings of Fraunce to haue beene in auntient time created by the voyces of the people, vnderstand not the bishops of Rheimes to haue affirmed, that to haue bene giuen vnto them by a certaine singular priuilege from the bishops of Rome: howbeit that it can in no wise agree with the faith & obedience which the archbishops of Rheims haue vsed to giue vnto the kings of Fraunce. Wee read also, that *Charles* (he which for want of wit was surnamed the simple) was crowned by *Fulke* the archbishop of Rheims, in the right of his neerenesse of blood, and not in the right of any election by voyces. Whereby *Otho* so chosen, prerended himselfe to be king: and vnto whom complaining of the iniurie done him by the archbishop in crowning of *Charls*: *Fulke* answered, That he had made choyce of *Charles*, according to the manner and custome of his auncestors, who had not vsed to chuse kings, but of the royall stocke & race of kings. Whose letters written vnto that effect to *Otho* are yet extant. Whereby it appeares, that if euer any man had the right of election, it belonged vnto the archbishop of Rheims, or that at leastwise he was in the possession thereof: and yet for all that, that he could not make choyce of any other king, but of the princes of the blood. But to shew that the right of the crowne of Fraunce still descended vnto the heire male next of blood and name, it appeareth not onely by the authoritie of them-whome wee haue before noted, but yet more also by the cruell and bloodie warre, that was betwixt *Lotaire*, *Lewes*, and *Charles* the Bauld, grounded vpon this, That their father had giuen the better part, and the regall seat of Fraunce, to *Charles* the Bauld his youngest sonne: howbeit that all the three brethren were kings, gouerning their diuided kingdoms with royall soueraignie. And for that *Henry* the first, king of Fraunce, the younger sonne of *Robert*, had bene chosen by his father, and his elder brother the duke of Burgundie reiectet: he fearing least the children of his elder brother, should in their fathers right lay claime vnto the crowne, and so put all France into ciuill warres, as it had before bene in the wars betwixt him and his brother; to preuent the same, hee caused his son *Philip*, so soone as he was but seuen yeares old, to be crowned king of Fraunce. Which yet was done without any forme of election at all: except perhaps, that some would absurdly say, The election of the kings to belong vnto the archbishops of Rheims, as giuen them by the pope, mistaking the consecration, for the creation of them. Howbeit that the verie consecrating of them, properly belonged not vnto the archbishops of Rheims alone: king *Lewes* the Grosse being consecrated by the archbishop of Sens, in the citie of Orleans. Besides that the archbishops of Rheims foolishly pretend them to haue that from the pope: wherein the popes themselues haue no right, no more than they haue vnto the empire, which they haue made subiect vnto their elections; and by thrusting the sickle into another mans haruest (as saith *Albericus* the lawyer) haue against al right made lawes concerning the estate of princes, binding the emperour to giue vnto him the oath of fidelitie: chalenging vnto himselfe the power to depose him; as all other kings also. Howbeit that the bishops of Rome do themselues by their decrees confesse, the French kings to be altogether free from the popes obedience & seruitude: neither to acknowledge any one greater than themselues, next vnto God. And that is it for which they say in this realme, *That the king neuer dieth.* Which auntient prouerb sheweth well, that the kingdome neuer went by election, & the kings thereof hold their scepters neither of the pope, neither of the archbishop of Rheims, nor of the people, but

How it is to be
 vnderstood.
 That the king ne-
 uer dieth.

A onely of God alone. And I remember a lawyer, a most famous pleader of his time, who to serue the cause he had in hand, said in his pleading, That the people of Fraunce had giuen the power vnto the king: alleaging therefore the words of the great lawyer *Vlpian*, where he speaking of the Roman emperour saith, *Lege Regia de eius imperio lata, populus ei & in eum omnem suam potestatem Contulit*, By a royall law made concerning his power, the people conferred vnto him and vpon him all his power: whereat the kings people suddenly arise, requesting the court in full audience, That those words might be rased out of the plea; shewing that the kings of Fraunce had neuer receiued their power from the people. Yea the court therefore sharply reprobued the said lawyer, causing the words, at the request of the Attourney generall, to bee rased out of the plea, forbidding him any more to vse such speeches: who neuer after, as euery man knoweth, pleaded cause in that court. But yet this is made more plaine by the solemnitic commonly vsed at the kings burials, where the kings garments, weapons, scepter, and armes, are so soone as the king is buried cast away; an herauld at armes with a loud voyce proclaiming thrice, *Rex est mortuus*, or, The king is dead. And euen he the same man, presently after aduancing a banner with the Lillies in it, the proper armes of this nation, crieth likewise, *Vivat Rex N. eique vitam diuturnam ac felicem Deus largiatur*, God saue king N. and graunt him long and happy life. The like manners and customs vse the English, the Scots, and Spaniards, with whom (as with vs) the kingdom is by right of succession giuen vnto the neereft of kin. The like ceremonies are vsed also amongst the Bohemians, the Danes, and Polonians, but yet not before that another king be by voyces created.

But now those daungers which we haue said to follow the election of a prince, be long not more vnto the kings and princes themselues, than vnto them that chuse them: for if the king be to be chosen by the voyces of the whole people, all must needs be full of seditions, factions, and murders. But if the nobilitie, or some other estate onely, shall challenge vnto themselues alone the right of chusing of the prince, the rest of the estates will grudge and repine thereat, that which is of right due to all, to be giuen to some few.

D yet could nothing be deuised more commodious or expedient for the auoiding of the factions of the seditious, and of ciuill warres, than to take from the multitude of princes and magistrats, the election of the soueraigne prince or king, & to communicat it with some few. For so the German princes (who in auncient time were fiftie foure, and now almost foure hundred) haue giuen all the right of their voyces, for the chusing of the emperour, vnto the seuen Princes Electors. Neither yet in so great fewnesse of them, doe they still well agree, but sometime being at discord among themselues, haue chosen two emperours at once: as namely *Albert* of Austria, and *Lewes* of Bauaria, who for the space of eight yeares made most cruell warres, which of them should as emperour rule and raigne one of them ouer the other, all that while one of them still spoiling and ruinating the townes, castles, and villages, of the others fauourits and part-takers. So in like manner the cardinals (who were but twelue) after the death of pope *Clement* the 4, for the great dissentions and factions of the mightie, differred the election of the next pope three yeares: and in fine chose the archdeacon of Leedes, who was then gone to Hierusalem, and was afterwards called *Gregorie* the tenth: & who for that cause bound the colledge of cardinals vnto most strait laws in the choyce of the pope, and yet could he not so prouide, but that after his death, they at once made choyce of three popes, and oftentimes of two; insomuch that at the last it was needfull to shut them vp, and to starue them with hunger, if within a certaine appointed time, they did not denounce him pope, who had at the most two parts of the voyces: which yet is more straitly kept in the chusing of the Grand Maister of the Knights of the order of Saint *Iohn*:

Election no less dangerous vnto the electors, than vnto the kings and soueraigne princes themselves (so elected.

Election of princes better to bee made by some few, than by many.

The strait order
observed in chus-
sing the Grand
Master of the
knights of Malta

for they mure vp the twentie foure electors, before nominated by the knight, without either meat or drinke, who must chuse one who is not of that number of the twentie foure, and that within a short time limited them. There haue bene seene also such factions, suits, and murders, to haue happened in this realme, about the election euen of the inferiour bishops, as haue oftentimes troubled the state euen of the most famous cities, and wherein he that was the most vicious and ignorant most commonly carried away the matter: than which no greater cause seemeth to haue bene, wherefore the voyces for the chusing of bishops haue bene taken from the colledges of priests and monkes, and giuen to princes: as the Chauncellour *Prat* declared, at such time as question was in parliament, for the verifying of the agreement made betwixt king *Francis* the first, and *Leo* the tenth: For which cause also the bishops and abbats in *Moscouie*, are drawne out by lot. E
G

Euill men more
commonly pre-
ferred than the
good, where men
are by election
promoted.

And yet neuerthelesse the onely colour that men haue to maintaine election, is to say, That the more worthy men are so chosen to be emperors, popes, bishops, and prelates. Wherein I referre them vnto the histories of all ages, which will say the contrarie: and that there haue seldome bene more vicious and wicked men, than were the most part of them who were by choyce and election preferred; which wee need not now by examples to verifie: but thus much onely I say, that if the right of succession had taken place, *Nero*, *Heliogabalus*, *Otho*, *Vitellius*, and such others, the monsters of nature, had neuer come vnto the Roman empire: *Augustus*, *Traian*, *Adrian*, both the *Antonines*, with other the emperours excelling in vertue and wisdome, who by adoption (as by the lawfull right of succession) obtained the empire, should haue bene excluded. But were it so that the better princes were still to bee chosen by the suffrages and voyces of the nobilitie, or of the people, or of other the wiser sort: yet so many and so great inconueniences are on euery side attending, as that it were better to want good princes (howbeit that we cannot by this meanes haue them) than to haue them with so great daunger of the subiects created and chosen, especially so long as the right of succession may take place. But the line of the monarchs fayling, and the right deuolued vnto the estates: in this case it is much suter to proceed by lot, hauing made choice of the most worthiest persons, or of such as be equall in nobilitie, or in vertue, or in power, to the end that one of them may be drawne by lot, rather than to enter into tearmes of election: prouided that the name of God be first called vpon, in following the forme of the auntient Hebrewes, who still said, Lord God direct thy lot, to the end that all forcerie and witchcraft may be from hence absent. So the great Prophet *Samuel*, when question was for the making of a new king, caused all the people to bee assembled, and the lot to be drawne for all the twelue Tribes, which falling vpon the Tribe of *Beniamin*, and lot cast also vpon the families of that Tribe, in the familie of *Cis* the lot fell vpon *Saul*, whome *Samuel* by the commaundement of God had before appointed, to the end that the people should not thinke that the kingdome was vnto him by chaunce onely fallen. But after that the Monarchy is once established, men haue commonly had regard vnto the prerogatiue of successiue right, without vsing either of election, or lot. So the seuen great princes of Persia, *Cambyses* being dead without issue, vsed lot, or rather the neying of an horse for the chusing of their king. Yet wee see *Darius* hauing once by lot got the kingdome, the soueraigntie of the state to haue bene afterward by successiue right deriued vnto his posteritie. H
I
K

A good meanes,
the line of Mo-
narchs fayling, to
preuent the dan-
gers still atten-
ding vpon e-
lection.

Some kings first
chosen by lot, &
yet their children
to haue obtained
their kingdomes
as by a successiue
right.

The successiue
right of the el-
dest sonne, com-
mon to all people

Now it is not enough that successiue right take place in the descending of a kingdome, but that the neereft of kin vnto the foueraigne monarch succeed him also: my meaning is, among the males, and those of his name, which is (to speake properly) the elder, as the first descended of him. For so the order of nature willeth that the elder should

- A** should goe foremost next after the father, and that the rest should euery one of them follow in their degree, and so by consequence, that he should be preferred before the others. And this law a man may say to be naturall, and such as hath bene alwayes almost to all people common. For so said *Perseus*, that by the right of nature common vnto all nations, and by the custome inuolably obserued in the kingdome of Macedon, the elder was still to succeed into that kingdome. And for that reason (as saith *Diodorus*) *Alexander* the Great carried away the crowne of that kingdome, from the rest of his brethten. As the manner was also in the kingdome of Parthia, where the eldest of the house of *Arfaces* their first king, and the neereft of his blood succeeded: following therein (saith *Iustin*) the auntient custome of the Parthies. In like manner amongst the
- B** Hebrewes, the kingdome of Iuda was giuen to *Ioram*, for that (as saith the Scripture) he was the eldest. And so *Herodotus* himselfe (the most auntient of all the Greeke historiographers) saith, That generally in all kingdomes the custome was, that the elder should by right of succession haue and enjoy the scepter and diadem: yea and more than foure hundred yeres before *Herodotus* (as saith *Corvinus Messala*, in his booke dedicated to *Augustus* the emperour) *Ilus* as the elder brother, was preferred vnto the kingdome of the Latines, before *Affracus* the yonger brother. We read them also of the West Indies (although men of all others most deuoid of humanitie) to haue also vsed this same naturall law, for the eldest to succeed before the yonger. And that when
- C** *Francis Pizarra* Generall of the Spaniards, conquering the kingdome of Peru, caused *Attabalippa* the king to be put to death: all the people thereat reioyced, to see him die that had caused his elder brother to be flaine, so to become king himselfe, contrarie to the custome of the countrey, and his fathers will conformable thereunto: who hauing two hundred children, yet by his will appointed that *Gaca* his eldest sonne should alone succeed him in his kingdome, without diuiding of the same. And albeit that the children were twins, yet so it is, that the prerogatiue of the kingdome is to be kept vnto him that is first borne, & so to be left, witnessed by most manifest proof: least such like quarrell should arise for the prerogatiue of birthright, as did betwixt *Iames* king of Scots, and the duke of Albanie, being twins: which kingdome the duke complained to bee wrongfully taken from him: king *Iames* maintaining the contrarie, for that he was the first borne. And so alwayes when men would force and violat this naturall successiue right, great troubles and ciuill warres haue thereof ensued: as it happened for the kingdom of Alba, inuaded by *Emulius*, being of right due vnto *Numitor* the elder brother: & to *Aristobulus* king of Iudea, thrust out of the kingdome by the sentence and doome of *Pompey* the Great, to make an end of the ciuill warres and seditions: the kingdome being so restored vnto his elder brother *Hircannus*, without respect to that which *Aristobulus* alleaged, his said brother not to haue bene fit to beare armes, neither yet to gouerne a kingdome. A reason and colour for which the fathers and fauourits haue oft time troubled the right of their children, to set the crowne due vnto the elder, vpon the head of the yonger. As did *Ptolomey* the first of that name king of Aegypt, who contrarie vnto the law of nations (as saith *Iustin*) preferred the yonger brother vnto the kingdome before the elder, which was the cause that one of them slue the other. In which errour *Ptolomee* surnamed *Physcon* offended also, who perswaded by his wife *Cleopatra*, preferred the yonger brother before the elder: but was no sooner dead, but that the people expelled the yonger, and restored the scepter vnto the elder. *Anaxandrides* also king of Lacedemonia, preferred *Dorieus* before *Cleomenes* his elder brother, for that he was the more ciuill: and yet the historie saith, that the people thereof grieuouly complained, as of a thing done contrarie to the law of nations. And albeit that king *Pyrrhus* said, That his will was, that he of his children should succeed him, which

Great troubles haue still arisen, where the naturall successiue right of the eldest hath bene violated, and the yonger brother preferred.

had the sharpest sword; meaning thereby the most valiantest of them: yet the people after his death preferred the eldest, although unfittest for warres. For whatsoever valour, courtesie, beautie, or wisdom there be in the yonger more than in the elder; yet should not the father therefore, contrarie vnto the law of nations, preferre the yonger before the elder: howbeit that the exteriour forme and feature of the bodie hath deceived many. Foolishly therefore do those parents, which ouercome with the flatterie of their yonger sonnes, and disinheriting the elder of their kingdomes, haue incensed their children most cruelly to murder one another: so as did the father of *Atreus*, and *Thyestes*, who willing to preferre the yonger before the elder, as the fitter for the manning of the affaires of state, so filled and soyled his house with most cruell and horrible tragedies. But more foolerishly doe they, which search into the natiuities of thier children, so to bestow the kingdome vpon him whom the starres seeme to fauour most: as did *Alphonfus* the 10, king of Castile, who by this means would haue preferred the yonger brother before the elder: who for the disgrace so offered him, slue his yonger brother, and caused his said father for griefe to die in prison. In like case almost *Gabriel* the yonger sonne of the Marqueesse of Salusse, by the consent of his mother cast his elder brother into prison, pretending that he was out of his wits: who yet breaking out of prison, recouered his principallitie, & hauing chased out his brother, coupt vp his mother in the same prison, wherein hee himselfe had but a little before beene shut vp. And not to seeke further from home, wee haue seene all this realme on fire with ciuill wartes, for that *Lewes* the Denout, at the intreatie of his second wife, had preferred *Charles* the Bauld, before *Lothaire* his elder brother. Wherefore pope *Pius* the second did wisely, in reiecting the request of *Charles* the seuenth the French king, desirous to haue preferred *Charles* his yonger sonne before *Lewes* the 11 his elder brother: howbeit that the king had reason so to do, considering that *Lewes* had without any iust occasion, twice taken vp armes against him, so to haue taken from him the crowne, and to haue pluckt the scepter out of his hand.

Now it is so faire from that the first begotten, or eldest sonne, should for cowardise or want of courage, be imbarred to succeed vnto the crowne, as that if he be misshapen and deformed also, yet ought not the prerogative he hath vnto the crowne by his birthright for that to be taken from him. Howbeit that it much concerneth the Commonweale to haue kings that be not deformed. Wherunto *Lycurgus* and *Plato*, would great regard to be had, and especially *Lycurgus*, who willed the deformed children to be slaine. But the *law of God hath decided this doubt, commanding the yonger not to be preferred before the elder, for what loue or fauour soeuer. Which is not onely to take place when question is of the right of the elder, but also when the next heire male of the fathers side is to succeed vnto the crowne, albeit that he bee deformed. For one ought not for one inconuenience to break so good a law, or to open a gap so dangerous vnto Monarchies: which to be so the estates & people of Hungarie shewed by a most notable example: contrarie vnto the will & disposition of *Ladislaus* their king, who hauing no issue, adopted *Alme* his brothers yongest son, so to make him king after him, reiecting *Coloman* his elder brother, whom he in a sort banished, sending him a great way off, to studie in Paris: causing him also afterwards to enter into the orders of priesthood, & withall bestowing vpon him a bishoprike, so to take from him all the hope for him to succeed vnto the crowne. For he was a man altogether deformed, goggle eyed, euill spoken, lame, & crooked backed; & yet for all that *Ladislaus* being dead, the estates of that kingdom draue out the yonger, refusing to haue any other king but the elder brother, whome they called home, and by their ambassadors afterwarde obtained of the pope, to haue him dispenced with, and discharged of his orders, and married also.

In

Great murders & ciuill warres to haue ensued, for hauing preferred the yonger brother before the elder.

* Deut. 21.
The elder brother euen by the law of God to be preferred before the yonger.

A notable example.

A In like case *Agefilans*, a lame dwarfe, hauing by the meanes of *Lyfander* a prince of the same bloud excluded *Leotichides* as *Alcibiades* his bastard, succeeded into the kingdom, not as the kings son, but as next of the fathers side, and of the bloud of *Hercules*: his aduersaries in vaine complaining the kingdom to hault. And howbeit that *Lyfander* who had preferred *Agefilans* to the kingdome afterwards did what he might to haue abrogated the antient royall law, and to haue published an edict whereby the nearest of bloud should not haue succeeded into the kingdome, but that the most sufficient of the bloud royall should still be chosen; yet was there none found of his opinion.

Some there bee which would adiudge kingdomes vnto the yonger being borne kings sons, their elder brethren being borne before that their fathers were king: as was iudged for *Xerxes*, declared king against *Artabazus* his elder brother begot by *Darius* before the kingdom of Persia fell vnto him: which iudgement was yet grounded vpon equitie. For that the kingdome was but lately fallen, not by any successe right, but euen by lot or rather as it were by chance vnto *Darius*. But where the kingdome is descended by a lawfull succession from former ancestors, the eldest or neereft of the fathers stocke is to succeed, although he be borne before his father was possessed of the kingdome. Whereby is vnderstood what is to be iudged of the question, which *Bartholus* writeth to haue happened in his time; as whether *Philip* earle of Valois his son borne before his father was king of France, should as king succeed him in the kingdome; or else his yonger sonne which he had after that he was king? Howbeit that I read in our histories him to haue left behind him none but his onely sonne *John*. But this same question might well haue bin disputed in the time of king *Charles* the second; who before he was king had his sonne *Lewes*: who yet without any question obtained the kingdome, although he had his brother *Charles* borne whilest his father was king. For now question was of an antient kingdome deuolued vnto the next of name: whereas otherwise the yong sonne of a king conquering a new kingdome should be preferred before his other brethren borne before their father was a king. For as the children of base men are not ennobled, being borne before their father was made noble; neither he to be accounted a priests sonne, which was borne before his father was a priest: so he also which is borne of a father before that he was king, nor capable of the kingdome by right of succession, cannot pretend any right to the crowne, although he be the eldest or neereft of kin: but if he be enabled to attaine thereunto by lawfull succession, the kingdome of right belongeth vnto him, how be it that hee were not the sonne of a king. As was obserued in the kingdome of Persia whereinto *Artaxerxes* succeeded, although he was borne before his father was king: as claiming the kingdome from his great grandfather. And albeit that his mother *Parysatis* thrust all Asia into ciuill warre to turne the estate vnto her best beloued sonne the yong *Cyrus*, yet so it is that by the iudgement of God he was in battell by his elder brother ouerthrowne and so slain. In like sort and vpon the same doubt which happened about the succession of the kingdome of Hungarie, *Geica* the elder brother borne before his father had obtained the kingdome, was by the consent of all the estates proclaimed king: which neuer after was called in doubt, in what kindome soeuer. Whereas otherwise there would ensue many intollerable absurdities: for if the king should leaue but one sonne borne before that he was king, he could not succeed him. But yet whereas we haue sayd, The soueraignie to be due to euery one that is next of kinne; extendeth farre, not onely vnto them who the eldest being dead come in stead of the eldest, but vnto their infinit posteritie also. For so *Demetrius* reasoned in the Senat at Rome, his brother *Antiochus* king of Syria being dead: for as (sayd he) the right of nations hath before giuen the kingdome vnto mine elder brother, euen by the selfe same right ought I now to

Whether a kingdome ought to descend vnto the yonger sonne borne whilest his father was king: or to the elder, borne before his father had obtained the kingdome.

succeed him in the same.

E

Whether the elder brothers son (his father being dead before he was king) bee to succeed into his grandfathers kingdome before his vnkle, his grandfathers yonger sonne.

But it may be doubted if the grandfather yet reigning, the eldest sonne shall die leauing a sonne, the grandfathers nephew; Whether the kingdome be due vnto the next brother or to the nephew, who is one degree farther off. Vpon which question many haue resolued it to be due vnto the next brother. And indeed *Scipio Africanus* willing as an vmpire to haue appeased the like controuersie betwixt *Corbis* and *Orsua* the vnkle and the nephew, for the kingdome of Numidia, and not knowing what in this point to resolue vpon, appointed the kingdome to be tried by combat betwixt them two: they both of themselves refusing to haue any other god or man for iudge but Mars: In which combat *Corbis* being both the elder and the cunninger ouercame his nephew, as *Liuius* writeth. Which like kind of combats betwixt the vnkle and the nephew haue oft in ancient time bene vndertaken among the Germaine princes: which was the onely cause that stirred vp *Barnard* king of Italie to take vp armes against the emperour *Lewes* the Deuout; alleadging that the empire of right belonged vnto him as the onely sonne of *Pepin* the eldest sonne of *Charlemaigne*, and not to *Lewes* the Deuout the yonger brother of *Pepin*: howbeit that *Lewes* yet caried it away, though not so much by right as by force of armes, and so preuailing against *Bernard* kept him shut vp in perpetuall prison. And euen yet at this present the kingdome of Moscouie is alwayes giuen vnto the yonger brother, after the death of the grandfather, without respect vnto the children of the elder brother: and that more is, the yonger brother succeedeth in the kingdome vnto the elder brother, although the elder brother being king leaue behind him a sonne yet vnder age: For so *Basilus* the Great, king of Moscouie succeeded in the kingdome after his elder brother who had children. For which reason also *Henry* of Lancaster the sonne of *John* of Gaunt deposed *Richard* the eldest sonne of *Edward* the Blacke prince: alleaging that his father beeing by death preuented, he could not succeed *Edward* his grandfather in the kingdome: which yet was but an vniust quarrell pickt. So in like case *Robert* of Naples the yonger brother, by the sentence of the Pope and of the colledge of cardinals, obtained the kingdome of Naples: the sonne of the elder brother king of Hungarie being so excluded. An vsuall matter amongst the Vandals, as *Procopius* writeth: for so *Honorius* got the kingdome of *Gensericus* his grandfather, howbeit that *Gerso* his eldest sonne dying had left sonnes; which he obtained not so much by his grandfathers will, as by the antient law of almost all the Nomades and Northren nations.

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I

K

And which I see to haue bene common euen vnto our ancestors also: for so *Gontran* preuailed against *Childebert* the eldest sonne of *Sigisbert* in the obtaining of the kingdom of France. So *Mauld* ouercame *Robert* her nephew, the son of *Robert* her elder brother, for the countie of Arthoise, the Senat of France deciding the matter; and so obtained her fathers whole inheritance. *Henry* also sonne to *Theobald* earle of Champagne in like sute ouercome his eldest brothers sonne. But when *John Montfort* in like sute for the dukedome of Britaine was ouerthrowne, by his aunt the daughter of *Vide* of Britaine; what by right he could not, he by force obtained, not without a most cruell and bloudie warre. And so (as we sayd) *Robert* the sonne of *Charles* the second, by the iudgement of the Pope obtained the kingdome of Naples, *Charles* his nephew the elder brothers sonne, king of Hungarie, in vaine reclaiming. *Sanxius* also the sonne of *Alphonfus* the tenth king of Castile, his father fauouring of him thrust his elder brothers sonnes out of the hope of the kingdome. *John* also hauing slaine *Arthure*, *Godfrey* his elder brothers sonne, tooke vpon him the kingdome of England. Vnlike was the quarrell of *Siluius*, who after the death of *Ascanius*, in the right of his mother tooke from *Iulus*, *Ascanius* his sonne, the kingdome of the Latins: For that *Lauinia* had *Sil-*

uius

Liuius li. 38.

The manner and order of the succession of the kingdome of Moscouie.

- A *nus* by *Aeneas* but not *Ascanius*. But not fewer, yea and I know not whether moe nephews to haue obtained their grandfathers kingdomes, their vncles yet liuing, according to the antient law of the Lacedemonians. As for *Lycurgus*, he gaue vnto *Charilaus* his eldest brothers sonne, his kingdome, which he might easly haue taken vnto himselfe, the child's mother consenting thereunto. *Arcus* also the elder brothers sonne, after the death of his grandfather obtained the same kingdome, his vnkle *Acrotatus* yet liuing. So also *Iohn* the sonne of *Ferdinand* succeeded to *Alphonfus* his grandfather king of Portugall, *Henry* his vnkle being yet aliue. And not long after *Sebastian* the son of *Iohn* the eldest brother tooke vpon him the kingdome of *Emanuel* his grandfather, and not *Henry* his vnkle; *Lewes* of Niuers also after the death of his grandfather got the counties of the Low countries his vnkle yet liuing and looking on. But *Robert* the second, king of Naples (whose father by the sentence of the Pope had ouercome his elder brothers sonne) when question was betwixt the vnkle and the nephew for the countie of S. Seuerine, by the counsell of the lawyers gaue sentence on the nephews side. The like sentence was giuen by the iudges of the court of Paris, betwixt the heires of *Iohn Vaste* the sonne of the earle of Foix, and the heire of *Francis Phébe*, who being the sonne of the elder brother had got his grandfathers inheritance, his vnkle yet liuing. So also was it iudged for the dukedome of Britaine against *Iohn Montfort*. Others haue left it as a thing doubtfull to be tried by combat. For as *Scipio Africanus* permitted the combat betwixt *Orfua* and *Corbis* whom hee could not by law appeale: the same we read to haue happened first vnder *Otho* the Great, and after that vnder *Henry* the first in Germanie; and the vnkle to haue bene ouercome by their brothers sonnes. But the nephew of *Agathocles* king of Syracusa slew his vnkle, going about to haue taken vpon him his grandfathers kingdome.
- B
- C

Neither want there probable reasons on both sides. For the nephew it auaileth that his father being dead he falleth into the power of his grandfather, & so is made his heire by the law of the twelue tables: and together with his vncles is admitted into his portion of his grandfathers inheritance, he dying intestat. And if the father substitute an heire vnto his sonne, that substitution ceaseth if the sonne beget children, onely vpon the coniecture of the fathers kind affection towards his sonne, as *Papinian* the lawyer hath answered. Yea, by the Roman lawes, brothers sonnes are admitted vnto their vncles inheritance: but then how much more true and iust is it for them to bee admitted vnto the inheritance of their grandfathers? That is also moreouer, that by the antient customes of Fees the nephew may by right receiue the whole benefit, his vncles being quite excluded. But no reason is more effectually, than that an inheritance neither entered vpon, neither so much as yet fallen, is not onely deriued from the grandfather to the nephews; but euen the verie vncertaine hope of a matter in trust being so but vnder a condition conceiued.

Reasons for the succession of the nephew before his vnkle.

- D
- E
- Neither yet for all this is the vncles cause on the other side altogether without reason, if a man will but more neerly looke into these matters, and without guile interpret the law of the twelue tables. For why this law still admitteth the nearest of kinne vnto the inheritance: but now the sonne is nearer vnto the father than the nephew, who but by a false supposall and fiction is deemed to be the same person with his dead father. But admitting that a fained supposall is in some cases to bee borne withall: yet seemeth it not reason that such a false fiction should preuaile against the truth, especially vnto another mans harme or preiudice of his right. Neither doth the kindnesse of nature suffer the sonnes to be spoyled of their fathers wealth and goods, that all might be giuen vnto the nephew, who is farthest off from the grandfather: which must needs be not onely in the obtaining of a kingdome, but also of a dukedome, or of an earle-

Reasons for succession of the vnkle before his nephew.

dome, or of an indiuisible fee, by reason of that imaginarie fiction whereof wee haue spoken, the nephew to be supposed to represent the person of his dead father. And so farre it was from that the Roman lawes should suffer the sonnes to be disturbed by the nephewes, as that things committed euen but vpon trust come not vnto the nephewes before that all the sonnes one of them substituted vnto another, be dead. But admit that the sonnes, contrarie vnto the lawes both of nature, and of the Romans, may be disinherited, that so way may be made for the nephew (which we see in indiuisible succession to be still done) yet is it an vnreasonable, and vniust thing, an infant, a child, or one vnder age, of no experience in matters of warre, or in the other ciuill and weightie affaires of the Commonweale, to be called vnto the soueraignie of a kingdome; and another neerer than he, that excelleth both in yeares and wisdom, to be in the meane time debarred of his fathers kingdome. For which reason the lawyers haue giuen the tuition of the fathers enfranchised slaue vnto the vncl, the nephew being excluded: but by how much more then is the tuition of the kingdome to be committed vnto the vncl, rather than vnto the nephew? And last of all so it is, that vncles vnto whom the tuition of their yong royall nephewes is almost still committed, commonly thinke of nothing else, but of the murthering and killing of them: whereof innumerable examples (and yet not all) are in histories reported, all which if I should goe about to gather together, I should so become tedious. Besides that, it is in sacred writ set downe, * *That Commonweale to be miserable and vnfortunat, where children beare rule.*

Howbeit that the old receiued custome of our auncestours, and iudgements in this case often giuen, haue called me backe from this opinion. For those inconueniences which we haue spoken of, happen but seldome: which being such, the lawmakers are not greatly to respect. For if we would rehearse all the kings of Fraunce euen from the time of *Charles the Great*, we shall scarcely, or els not at all, in the space of twelue hundred yeares, find the vncl and the nephew, after the death of the grandfather, to haue met together as competitors in the succession of this kingdome. Wee read it in the space of about fise or six hundred yeares to haue happened once in England, once in Castile, twice in Portugall, and once in Sicilia. Wherefore let the sentence as well of the auntient, as of the later lawyers preuaile for the nephew against the vncl: not only in direct, but euen in oblique, and collaterall succession also. Which we haue somewhat the more curiously reasoned of, for that succession of the kingdome of Fraunce, which seemeth to be euen neere at hand. But if cosin Germans, or the vncl and the nephew, shall in the right of themselves without any fained supposall of representation, lay claime vnto the crowne of a king their kinsman, dead without heires male, be it that they were fiftie degrees off, yet he that is descended of the elder, albeit that hee were himselfe the younger, shall carry it away from the elder: as it may and hath oftentimes enow happened in this realme. And yet neuerthelesse in particular successions in collaterall lines, they shall equally diuide the diuisible inheritance into parts: but if the inheritance be indiuisible, the elder of the two in like degree is to bee preferred before the younger, and to enioy the right of his eldership, albeit that the younger bee descended from the more auntient auncestours: as was adiudged in the court of Paris, betwixt *Villiers*, and *Baynecourt*, cosens germans, for the inheritance of *Francis Bloqui*, without any regard vnto the race of the elder auncestours, considering that they came vnto the succession of their chiefe or head, and not by false supposall, or by the way of representation.

And yet is it not sufficient, that the next heires male of name succeed, but it is needfull also, that the kingdome, how great soeuer it be, with all the soueraigne rights thereof, bee wholly giuen to one without partition: as *Genfericus* king of the Vandales wisely

- A** wisely appointed. For otherwise if a Monarchy be diuided, it is no more to be accounted a Monarchy, but rather a Poliarchy, or Monarchy diuided into many Monarchies. Which was not by the law Salique with vs (as some suppose) provided for, or foreseene. For we find that *Aribert*, brother to *Dagobert* the eldest sonne of *Clotaire* the second, was also king with his brother, one of them holding nothing of the other. *Clodoueus* also the eldest sonne of *Dagobert*, was king of Paris, and *Sigebert* his brother king of Metz. And after the death of *Clodoueus* his foure sonnes diuided the realme into foure kingdomes: for *Childebert* was king of Paris, *Clodoueus* king of Orleans, *Clotaire* of Soissons, and *Theodoric* of Metz. But the rest being dead, all in fine came to *Clotaire*, whose eldest sonne *Cherebert* was king of Paris, *Chilperic* of Soissons, *Gontran* of Orleans, and *Sigebert* of Metz, all kings: which multitude of kings were scarce euer quiet from ciuill warres. For which it was wisely provided by the successors of *Hugh Capet*, who ordained three kings of great consequence for the maintaining of this Monarchy in the greatnesse thereof. First they excluded the bastards of the house of Fraunce, from all entrance vnto the kingdome, not allowing them so much as to be accounted in the number of their naturall children: that so from thenceforth they might thinke of the begetting of lawfull children, their base borne children being now quite excluded from the crowne. Howbeit that it was permitted vnto the bastards of other princes of the blood, and of other noble houses, to be by their fathers auouched, and to beare the name, the armes, the stile and noble titles of their naturall fathers: providing also better, by taking away of the masters of the palace, whose power was now become dreadfull vnto the people, and daungerous vnto the kings: Secondarily they ordained all the soueraigne royall rights, to be wholly and entirely giuen to the eldest brother alone, and from thenceforth not to be communicated with the younger brethren, but to be all enforced to yeeld vnto their elder brother all obedience and fealtie. And lastly, that such lands as by the kings appointment were assigned vnto the kings sonnes, to be holden in fealtie, they dying without heires male, should againe freely retorne vnto the crowne. And the kings sisters to haue their dowrie in money onely: that so not onely the rights of soueraignie, but euen the crowne lands also, might so much as possible was be kept whole & entire vnto the eldest brother. And as for the bastards of France, we find them in former times to haue had their parts in the kingdome together with the kings other lawfull sonnes: as the bastard brother of *Charles* the Simple, had part in the kingdome, and so after the manner of our auncestors was called a king. True it is, that *Theodoric* the kings bastard was excluded, for that he was begot of a bondwoman, who yet neuerthelesse demaunded his part of the kingdome, vnto whome for all that aunswere was giuen, That he must first be made a free man.

That a kingdom
hew great soeuer
is not to be diu-
ded, but to be
wholly giuen to
one without
partition.

Three things of
great consequence
ordained for the
maintainance of
the kingdome of
France in the
greatnesse thereof.

- And as for diuiding of a Monarchy, I haue said, that being diuided, it is no more a Monarchy, no more than a crowne or robe diuided into parts, is any more to bee accounted a robe or a crowne: the inuiolat nature of vnitie being such, as that it can abide no partition. Neither find we the auncient kings of Persia, Egypt, Parthia, or Assyria; at any time to haue diuided their most great and spacious kingdomes: neither yet any other kings to haue vsed any such partition of their realmes. *Iosaphat* king of the Iewes hauing six sonnes, left his kingdom whole and entire vnto his eldest sonne *Ioram*, assigning vnto the rest certaine yearely annuities, or pensions. The first that opened this daungerous gap, was *Aristodemus* king of Lacedemonia, who yet diuided not his kingdome vnto his two sonnes, *Proculus* and *Euristhenes*, but left the kingdome vndiuided vnto them both: and so thinking to haue made them both kings, tooke from them both all soueraigne authoritie and power. After whose example the kingdome of the Messenians, neere vnto the Lacedemonians, was by the father giuen vndiuided vnto

A Monarchy di-
uided, no more
to be accounted
a Monarchy.

Leucippus;

To diuide a
kingdome, a
thing dangerous

How the diuision
of kingdoms
may be borne.

That a new con-
quered kingdome
with all the foue
raigne rights
thereof, is better
lett wholly vnto
one, than to be
diuided amongst
many.

How the kings
younger sonnes
are provided for
in Fraunce.

Leucippus and *Amphareus*, being brethren: the chiefe cause why those two kingdoms were chaunged into Aristocracies. And yet two inconueniences propounded, it is better two kingdomes to be giuen vnto two kings, than one kingdome to be giuen to many: as it hath sometimes happened, the father to haue diuided vnto his sonnes diuers kingdomes, before they were into one vnited: for so *James* king of Aragon appointed *Peter* his eldest sonne to be king of Aragon, and *James* his younger sonne to bee king of Maiorque: howbeit that afterward the elder brother tooke the yonger prisoner, and in prison starued him, whome much lesse he would haue endured to haue bene partner with him in the kingdome, and so vnited both the kingdomes into one. So it befell also the children of *Boleslaus* the second, king of Polonia, who hauing diuided the kingdome vnto his foure sonnes, and leauing nothing vnto the fift, kindled such a fire of sedition, as could not afterward be quenched, but with much blood of the subiects. Yet this diuision of kingdomes is well to bee borne withall, when it is made by him which hath conquered them, who may giue his conquests got by his owne prowesse and valour, vnto his yonger sonnes, as he seeth good, according to their age or deserts: leauing yet still vnto the eldest, the auntient kingdome or territorie: as did *William* the Conquerour, who left the dukedome of Normandie, and the other countries which he had from his father, vnto his eldest sonne *Robert Curteysse*, who succeeded him not in the kingdome of England, for that he was not the sonne of a king (as saith the Norman historie) but left that kingdome which he had conquered vnto *William Rufus*, which hee had not as yet vnited vnto his other countries: leauing vnto *Henrie* his third sonne nothing but a yerely pension: and yet for all that *Robert* the eldest brother, desirous also to haue had the kingdome from *Henry* the third brother, who after the death of *William Rufus* his brother, had ceased thereon, in seeking too greedily thereafter, lost both the one and the other: and being taken by the third brother (who now carried away all) was by him cast in prison, and so deprived of his sight there miserably died. And albeit that this disposition of the Conquerours was right iust, as grounded both vppon reason and authoritie, yet had it bene much more sattie, to haue left the whole kingdome, and all the soueraigne rights thereof vnto one alone: as was done amongst the children of *Charles* Countie of Prouince, and of *Philip Valois* king of Fraunce, where the eldest had all: which is by farre the surest for the estate, without respect vnto the other legitimat children, which are not to haue place, where question is of soueraignie, or of demaines vnited to a Monarchy. For if honourable fees be not to be diuided, by how much lesse can kingdomes themselues, and soueraigne rights so bee? As dukedomes, counties, and marquissats, yea and in many places baronies also, are not suffered to fall into partition: provided yet that the yonger brethren bee in some sort recompensed: which recompensing is not in a Monarchy, which suffereth neither diuision nor estimation to take place. But well of long time the vse hath bene, to giue certaine lands and fees for the maintainance of the younger brethren of the house of Fraunce: which haue bene again adiudged vnto the crowne, they which had them being dead without issue: as was decided for the inheritance of *Robert* earle of Cleremont brother to saint *Lewes*, vnto whome that inheritance was adiudged: his other brethren *Charles* and *Alphonfus* earle of Poitiers both excluded. The like iudgement being also giuen against *Charles*, concerning the succession into the inheritance of *Alphonfus*, dying also without issue: *Charles* his brother enioying no part thereof, the inheritance by a decree of the Senat, being adiudged from him, and giuen vnto the crowne. For which cause the succeeding kings better aduised, and to the intent that the matter should bee no more doubted of, haue provided, that in the letters patents concerning the lands and pensions giuen vnto their younger brethren, it should expressly be comprised, that they dying without

- A without heires male, those lands vnto them so giuen should againe returne vnto the crowne: as was done in the graunt of the lands giuen to *Lewes* duke of Aniou, king *John* his sonne. And albeit that *Renate* the yonger sonne of *Lewes* the third, duke of Aniou, succeeded his elder brother into the inheritance, yet was it rather by sufferance, than for any right he had so to doe as heire male. For otherwise the earle of *Ni*uers after the death of *Charles* duke of Bourgundie (his nie kinsman dead without any heires male) might iustly haue claimed the dutchie, considering that in the letters patents of *Philip* the Hardy, the dukedome of Bourgundie was giuen vnto him and to his children, as well females as males, without any exception of sexe. Yet pretended the earle no right thereunto, but the duke being dead, king *Lewes* the eleuenth in his owne
- B right claimed the dukedome of Bourgundie. True it is, that the French kings in that point sometime fauour the princes of the blood, suffering them to enioy the inheritance of their kinsmen, dying without heires male. So *Philip* of Valois obtaining the kingdome, resigned the earledome of Valois vnto his younger brother *Charles*. And *Charles* the sixt the French king being dead, *Charles* of Angoulesme succeeded vnto the dutchie of Orleans, and yet his sonnes sonne *John* of Angoulesme succeeded not vnto the said dutchy of Orleans, *Lewes* the twelfth hauing got the kingdome, annexing the same dukedome vnto the crowne. For they are deceiued which write *Peter* of Burbon, lord of Beauieu, to haue succeeded his brother *John* into the lands which hee had receiued from the kings his auncestors, by lawfull right rather than by the graunt and
- C fauour of king *Lewes* the eleuenth, whose sister *Anne* the said *Peter* had married, whom he most entirely loued. And so *Lewes* the twelfth was content also, that *Susan* of Burbon the onely daughter of *Peter* of Burbon, marrying *Charles* of Burbon, should hold such lands, long before giuen to the crowne: but the said *Susan* beeing dead without issue, those lands were forthwith ceized vpon, and againe annexed vnto the crowne, namely the counties of Auergne, and Clermont, and the dukedome of Burbon, howbeit that it was not in the letters patents comprised: which thing is thought especially to haue moued *Charles* of Burbon to haue entred into rebellion against the king. So also we find, that after the death of *John* the third, duke of Alanson, the dutchy of Alanson was at the
- D motion of the kings Attourney generall ceized vpon for the king; howbeit that the duke had left two daughters his heires, vnto, whome were reserved onely the lands by their father purchased. All which was done to the intent so much as was possible, to keepe the kingdome vndiuided, and so to come whole and entire vnto the kings, and not rent and torne, with the parts thereof as the limmes pluckt away: as it hath also bene wisely foreseene, and provided for, in the dutchies of Sauoy, Milan, Loraine, Mantua, and Cleue, which indiuisibly belong vnto the next of kin. And albeit that the German princes do equally diuide all the fees of the empire, excepting the princes electors, yet is that contrarie vnto the custome and manner of their auncestours (who as *Tacitus* writeth) gaue all their lands and inheritances vnto the eldest, and their mouables & money onely vnto the rest. And so we read *Abraham* the Patriarch to haue done, giuing his whole inheritance vnto his eldest sonne, and money vnto the rest, whome hee
- E sent from him whilest he himselfe yet liued.

The reason why women inherie not lands by their auncestors descending vnto them, which lands sometime belonged vnto the crowne of Fraunce.

But haply here some man may say, it to be expedient if the Monarchie be great, as were those of the Persians, the Romans, the Frenchmen, and the Spaniards; and that the prince or monarch haue many children, or that there be many competitors, that then the surest way is to diuide it: so as did *Augustus*, *Marcus Antonius*, *Sextus Pompeius*, who by lot diuided the Roman empire, and so of one great Monarchie made three. And this expediencie should seeme vnto me good, if that princes after that they had bounded out their frontiers, could bound out also their desires. But there are no

mountaines

Great kingdoms and monarchies, not to be with any safetie diuided into many.

mountaines so high, no riuers so broad, nor seas so deepe, that were euer yet able to stay F
the course of their ambitious and insatiable desires: as these three great men of whom
I but euen now spoke, by prooffe shewed: not onely the island of Sicilia (although it
were but a most strait prouince) but euen the ayre which we breath, together with life
it selfe, being taken from *Sextus Pompeius*, the bonds of confederacie being in short time
broken amongst the confederats. Neither could *Antonius* endure the gouernment
of *Augustus*, neither *Augustus* the gouernment of *Anthony*, although he were a great
way off from him. So that one of the three being before slaine, the other two could
neuer be at quiet, vntill they had one of them quite ruinated the other. And if at any
time it haue happened, some of the emperours of the East, and of the West, in so great G
an empire to haue liued in peace, it was not long, but almost a miracle, neither such as
to be drawne into examples for vs to imitate: whereas to the contrarie for one example
of them, which haue in vnitie and concord gouerned together, there are to be found an
hundred which haue massacred one another. Whereof there is no more notable ex-
ample, than the mightie *Othoman* familie, wherein many most horrible murders haue
bene for the empire committed, the parents not sparing their owne children, neither the
children their parents: insomuch that within this two hundred yeares past, they haue
not ceased still to kill one another, vntill there be but one of them left alieue. And in the
little isle of Gerbe, six kings haue in lesse time than fiftene yeares bene slaine one of
them by another, being not able to endure a companion or partaker one of them with
another in the soueraignie. And albeit that *Galeace* the second, and *Barnabas*, two most H
louing brethren, brought vp euen from their cradles together, hauing oftentimes endu-
red like daungers; being both banished, and both at one and the selfe same time called
home againe, and both two established lieutenants of the empire, and alwayes compa-
nions in armes together; had equally diuided the principalltie of Milan betwixt them,
which they so held and defended, as that it seemed a thing impossible to seperat them a
sunder: yet at length *Galeace* onely for the ambitious desire of soueraignie, most cru-
elly slue his said brother, together with all his children. So *Abimelech* the bastard slue
threescore and nine of his brethren, that he might all alone raigne. And *Berdebec* king
of Tartarie with like slaughter, and for like cause, slue his twelue brethren. *Sephadin* also
caused the ten sonnes of his brother *Saladin* to be all murdered, that he might himselfe I
alone raigne in *Egypt*. The successors of *Alexander* also most part of them slue one
another, not sparing either their parents, or children. For as for one brother to kill ano-
ther, it was so common a matter (as *Plutarch* writeth) as that it seemed almost a mira-
cle vnto the ambassadour of *Ptolomey*, that *Demetrius* standing on the right hand of
Antigonus his father, with a boare speare in his hand, could abstaine from killing of his
father. But yet greater was the crueltie of king *Deiotarus*, who at one time slew twelue
of his sonnes, for no other cause, but so the better to assure his kingdome vnto the thir-
teenth, whome he best loued. For alwayes amongst equals, the ambitious desires they
haue to be one of them greater than another, still armeth them one against another:
Wheras in a Monarchy, where there is but one soueraigne, and vnto whom the prin- K
ces of the blood are all subiect, being prouided of yearly pensions, or lands giuen them
for their maintenance; it is certaine, that to haue alwaies some farther fauour from their
soueraigne, they will still yeeld them more obeysance. And therefore our kings which
haue bene better aduised, haue not giuen vnto their brethren, or the princes of the
blood, the places of lieutenants generall of their armies, either of the high constable:
but rather vnto some other of the meaner nobilitie, such as were *Bertrand*, *Guesclin*,
Oliuer Clifton, *Simon* earle of Montfort, with others of like qualitie, men of great ser-
uice, and vnder whome the princes of the blood might march; and yet neuerthelesse
without

Soueraignie ad-
mitteth no part-
nership.

Places of too
much power and
command, not
to be committed
vnto princes of
the blood, or o-
therwise great
lords.

- A** without all hope of aspiring to the soueraigntie. So as did the auncient Romans, and namely *Augustus*, who amongst other the secrets of his gouernment, had this for one, Not to giue the place of a Genetall, or of a Gouernour of the frontiers, and especially of *Ægypt*, vnto any the noble Senators of auncient houses, but onely vnto men of meaner estate. And albeit that the kings of the Northerne parts haue as it were alwaies called the princes of their blood vnto their counsell; yet so it is, that other Monarchies keepe them backe so much as they can: whether it be for the distrust they haue in them, or to keepe their counsell in such libertie, as that it may not be diminished by the greatnesse of the princes of the blood: or that it is to take away the ambition and iealousie which is ineuitable amongst princes of the same blood, if the king shall chance to fauor one of them more than another. And although there be many princes neere vnto the *Othoman* blood, as namely the *Michaloglies*, the *Ebranes*, the *Turacanes*; yet are they neuer of the priuie counsell, either yet admitted to any great place of honor, or command. And in the Monarchy of the *Æthiopians* (which is one of the greatest, and most auncientest in the world) there is no prince of the blood, which commeth neere the court, but are all trained vp in all honour and vertue, within a most strong castle, built vppon the mountaine *Anga* (one of the highest in all *Affrike*) kept with a perpetuall & strong garrison: from whence at such time as the king dieth, he which excelleth the rest in vertue, is from the mountaine called vnto the kingdome. Which (as they say) was first ordained by one *Abraham* king of *Æthiopia*, by diuine reuelation, to auoid the factions and ciuill warres of princes among themselves; as also the massacres which oft times happen in other kingdomes, about the soueraigntie; as also to haue alwaies princes of the blood roiall, whome they call *The Children of Israel* (assuredly supposing them to be of the blood of the Hebrewes: beside that, the *Æthiopian* language taketh much of the Hebrew) to the intent the estate should not fall into combustion, the kings line sayling: or els for that the princes of the blood should not at libertie seeke to aduance themselves by force: or being aduanced, should not seeke to inuade the estate. For a man may hold it for a maxime, That in euery Commonweale, if too much power be giuen vnto a prince or great lord of the blood, it is alwayes to be feared; least he should at one time or other ceize vpon the estate; seeing that even the basest companions mounted vnto hie degree, are not without cause to be feared. So *Sultan Solymán* made *Abraham Basa* of a slaue so great, by heaping honors vpon honours vpon him, as that in fine fearing his power, he was glad to cause his throat to be cut as hee was sleeping, and afterwards found him be worth thirtie millions of gold. But this is more to bee feared in a litle kingdome or estate, than in a great: for that the subiects coupt vp as it were all in one place, are the more easily kept vnder by the power of the stronger. So when *James Appian* prince of *Sienna*, too much fauouring *Peter Gambecourt*, a man of base degree, had made him too great in honour and wealth, he was by him (before he was aware) thrust out of his estate. The like pranke *Calippus* serued *Dion*; *Brutus*, *Cæsar*; *Macrin*, *Caracalla*; *Maximinus*, the emperour *Alexander*; *Philip*, the yong *Gordianus*: and an infinit number of others, who exalted from most base degree, haue driuen out their maisters by whome they grew, and so made themselves lords. Who would haue thought that *Agathocles* a Potters sonne, of a common souldior chosen a Generall, durst haue slaue all the nobilitie and richer sort of the citisens of *Syracusa*, & made himselfe a king? Now if such a base companion as he durst doe so much, how much more warily is it then to be foreseene, that too great a command or power bee not giuen vnto princes or great men, either at home, or in seruice abroad? And this is it for which many haue holden, that by law the poynts reserued vnto the maiestie of a soueraigne prince, are neuer to bee communicated vnto a subiect, no not so much as

A right strange
custome vsed a-
mong the
Æthiopians.

Master of the for-
ces, master of the
estate.

by commission, to the intent that no gap by any way be opened for the subiect to enter by into the soueraigne estate of his prince. F

We haue said also, that a Monarchy ought to descend vnto the heires male, considering that the rule and government of women, is directly against the law of nature, which hath giuen vnto men wisdom, strength, courage, and power, to commaund; and taken the same from women. Yea the *law of God hath expressly ordained, That the woman should be subiect vnto the man, and that not onely in the government of kingdoms and empires, but also in euery particular mans house & familie: he *threatning of his enemies, To giue them women to be mistresses ouer them; as of all miseries and calamities the worst. Yea and the law it selfe forbiddeth women all charges and offices proper vnto men; as to iudge, to sue, and other such like things: and that not onely for lacke of wisdom (as saith *Martian*, when as amongst all the goddesse onely *Pallas* had no mother, but was borne of *Iupiters* braine, to shew that wisdom proceeded not from women) but also for that mens actions are contrarie vnto their sexe, and to feminine modestie and chastitie. Neither was there any thing which more incensed the Senat of Rome, against the emperour *Heliogabalus*, than to see his mother to come into the Senat, though she came but only to see, & not to say any thing. Which was also thought a right strange thing to our auncestors, that *Maud*, grandmother to *Philip* the Long, should be assistant vnto *Robert* Countie of Artoise, and *Margret* Countie of Flanders, at the iudgement of the Countie of Clairmont. Now if it be an absurd and rediculous thing, for women to busie themselues in mens publike actions and affaires, belonging properly vnto men: much more vnseemely is it, those things which belong vnto soueraignie, to lie open vnto womens pleasure. For first the woman vnto whome the soueraignie is deuolued, of these two things must doe one; either shee must marrie, or else continue vnmarried, and so her selfe rule. If shee shall marrie, yet is it stil a Gynecocratic, or womans government; for that the marriage is made with that condition, That the soueraignie is still with the woman, and not with the husband: as was expressly excepted at such time as *Isabella* queene of Castile marde *Ferdinand* king of Aragon: and in our time, betwixt *Mary* queene of England, and *Philip* prince of Spaine, whome they called the queenes husband. And in like case in the matrimoniall contracts betwixt *Sigismund* archduke of Austria (who was afterward emperour) and *Mary* queene of Hungarie, whome the subiects in scorne called *King Marie*. In which case the husband is chiefe of his familie, and maister of his domesticall household; and yet for all that in publike affaires remaineth subiect vnto his wife. For why, the publike power (as saith the law) is neuer bound vnto the domesticall power. And for this cause the Consull *Fabius* caused his father (the great *Fabius*) to alight from his horse to doe him honour, as to the Consull in publike: who yet for all that by vertue of his fatherly power, might without giuing cause or reason why, haue put him to death at home in his owne house. But if the queene shall remaine vnmarried (which is the most true womans soueraignie) the Commonweale must needs so be in great daunger: For that the people being of a great and couragious spirit, will deeme a womans government but ignominious, and not long to be endured; some both by their speaking & writing, scoffing and deriding their sexe, othersome their womanly wantonnesse, and others their womannish intollerablenesse: whereas nothing is more dangerous vnto an estate, than to haue them which beare the soueraignie contemned and derided of their subiects, of the maintenance of whose maiestie, dependeth the preservation both of the lawes, and of the estate, which should bee troden vnder foot for the womans sake, against whome there shall neuer want mockings, reproaches, flaunderous libels, and so in fine rebellions & ciuill war, especially if she (impatient of such vnworthy reproach) shall

That a Monarchy, in the opinion of the author ought to descend onely vnto the heires male.
* Genes. 3.

* Esay. 8.

This French opinion is by the examples of many worthy women, and experience of their most happy governments to fully refuted, as that there needeth no further reasons to be vied, to proue the contrary.

All these dangers with many mo incident vnto womens soueraignie, are and haue bene right well auoied and prevented, by the wisdom of worthy women, who with no lesse discretion, than many men, haue maintained the maiestie of their soueraignie, with the reputation of their sexe.

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A shall seeke to bee thereof reuenged, which can hardly without ciuill tumult bee done. But if she shall chance to beare but the least extraordinarie fault to any one of her subiects, beside the enuie which he is to endure, to whome such fauour is showne, men will still on her part misconster the same. For if the wisest, and most chaste haue euen in that respect had much adoë to keepe themselues from false reports; much lesse can a soueraigne princeesse couer her fauours; no more than can a light firebrand set vpon an high watch tower: which may serue for cause enough to kindle the fire of ieaousie among the subiects; and to arme them one of them against another. Besides that, it is almost naturall vnto women, to take pleasure & delight in the number and quartels of their sisters. But if the subiects be so minded, as by force or otherwise to suffer in the soueraigne estate a womans gouernment, then is it not to be doubted; but that euerie one of the subiects shall be constrained to endure the like in their owne priuat houses also. For it is a rule in policie, that whatsoeuer thing is found good, and sufferable in publike; the same is to be drawne into consequence and example in particillar. Which was the cause the Persian princes preferred a request vnto *Darius Memnon* (whome the holy Scripture calleth *Assuerus*) That the disobedience of the queene *Vasthi* his wife, should not remaine unpunished, least her pride should giue occasion vnto the other subiects wiues, to be disobedient vnto their husbands. For as the familie is out of order, where the woman commaundeth ouer the husband, considering that the head of the familie hath lost his dignitie to become a slaue: euen so a Commonweale (to speake properly) looseth the name, where a woman holdeth the soueraigntie; how wise soeuer shee be; but so much the more if she be vniust with all, and not able to rule her owne immoderat lusts and desires. I suppose there is none which knoweth not what tragedies *Ione* queene of Naples (who of her vnchastitie was called *Lupa*, or a shee wolfe) stirred vp of her selfe, who most cruelly murdered three kings her husbands, and was therefore her selfe also strangled, as she well deserued. I speake not of the horrible and brutish lusts of *Semyramis*, the first that by a straunge meanes set foot into the Assyrian Monarchy. For hauing obtained of the king, to haue the soueraigne commaund but for one day, she the same day commaunded the king himselfe to be slaine. What should I say of *Athalia* queene of Iuda, who seeing her husband slaine, put to death all the princes of the blood (excepting one which escaped) and so by force held the soueraigntie, vntil that she was at last by the people her selfe also murdered. With like wickednesse also *Cleopatra* slue her brother, that so she might alone enioy the kingdom of Egypt. There was also one *Zenobia*, who stiled her selfe an emperesse (together with the thirtie, vsurping tyrants) and was by the emperour *Aurelian* ouercome. And in like case did *Hirrene* emperesse of Constantinople, coupt vp at last into a monasterie her selfe. In brieue I find no people to haue liked of the soueraigntie of womans gouernment: howbeit that many haue endured the same: as did the Neapolitans the gouernment of *Constance*, last of the race of the Notman kings, that raigned in Naples. And after that of *Ioland* the daughter of *Iohn Brenne*, married to the emperour *Frederike* the second, who gaue that kingdome to *Manfred* his base sonne, whose daughter *Constance* marrying into the house of Aragon, kindled the fire of the warres which continued two hundred yeares, betwixt the houses of Aniou and Aragon; and could neuer bee quenched but with the great effusion of the blood of many most valiant and worthy men; and all for hauing giuen an entrance vnto a daughter into the succession of the kingdome of Naples. But when the colledge of cardinals saw the Christian Commonweale, and especially Italie, to haue endured so many and so great slaughters, in so long and such mortall warres, and all for distaffe soueraigntie; it was by them decreed, That from that time forward, the kingdome of Naples should no more descend vnto wo-

What'so is good in publike, is alwayes good in particular.

The euill examples of some few ought not to be preiudiciall vnto others that be good.

men; as in the inuestiture made to *Alphonfus* king of Arragon, in the yeare 1455; and afterwaſd to *Ferdinand* king of Arragon, in the yeare 1458, it is expreſſy ſet downe, That the daughters ſhould not ſucceed vnto the kingdome of Naples, ſo long as there were any heires male, either in the direct or collaterall line; euen vnto the fiſt degree. But that gap for the ſucceſſion of daughters being opened in Italie, was afterwards alſo put in praſtiſe in the kingdomes of Hungarie, and of Polonia, which fell to *Marie* and *Hedwige*, the daughters and heires of *Lewes* king of Hungarie, and of Polonia; which had neuer before bene ſeene. At which ſelfe ſame time almoſt, *Mary Valmar* (contrary vnto the lawes and auncient cuſtomes of the countries) ſucceeded into the kingdomes of Norway, Sweden, and Denmarke. The like example was after alſo followed in the kingdome of Caſtile; whereinto *Iſabel* of Caſtile ſucceeded her father; hauing gained the fauour of the nobilitie: who albeit that ſhee was one of the wiſeſt princeſſes that euer were, yet did the eſtates of the countrey thereof complaine, and the people thereat grudge, complayning themſelues; Neuer before to haue endured a womans gouernment. And whereas the alleaged *Socina* the daughter of *Alphonſus*, to haue before in like manner brought the kingdome of Caſtile vnto *Sillon* her husband: aunſwere was thereunto made by the ſubiect, That to haue bene done rather by force; than by any right; and that from that time the eſtates of Caſtile had proteſted, That it was contrary vnto the lawes of the countrey. Which haſted the marriage betwixt *Ferdinand* and the ſaid *Iſabella*, ſo to keepe the people vnder. And albeit that *Henry* king of Caſtile, had by his laſt will and teſtament at the time of his death declared, That the kingdome of Caſtile after him belonged vnto *Lewes* the ninth the French king; in the right of his mother *Blanch* of Caſtile; and that the barons of Caſtile had writ vnto the ſaid French king, that he ſhould come to take poſſeſſion of the kingdome: yet ſo it was, that hee neuer durſt vndertake to lay claime vnto the ſame, howbeit that he had the conſent of the nobilitie of the kingdome by letters vnder their hands and ſeales, which are yet to bee ſeene in the records of Fraunce. Now by the ſame craft that *Iſabel* had wreſted vnto her ſelfe the kingdome of Caſtile, did *Ferdinand* the ſonne of *Leonore* alſo gaine the kingdome of Arragon: as did alſo after him the earle of Barcelone, hauing married *Petronella* the daughter of the king of Arragon. Which happened alſo in the kingdome of Nauarre, whereunto *Henry* the Large, earle of Champaigne ſucceeded in the right of his wife, the king of Nauarres daughter: whoſe daughter and heire *Ioane*, married vnto *Philip* the Faire the French king, brought vnto him the earledome of Champaigne, with the kingdome of Nauarre: but the heires male of *Philip* the Faire failing, that kingdome of Nauarre in the right of three women fell vnto the houſes of *Euveux*, of *Foix*, of *Albert*, and of *Vendosme*: ſo that this kingdome in leſſe than foure hundred yeares, was transported into ſix ſtrange liouſes, and vnto ſeuene ſtraunge princes, the queenes husbands. But yet by the way it is worth the noting, foure women all of one name to haue opened the way vnto womens ſoueraigntie, in the kingdomes of Hungarie, of Norway, of Sweden, of Denmarke, of England, and Scotland. True it is, that *Maud* daughter to *Henry* the firſt, king of England, before brought the kingdome of England vnto the houſe of Aniou in Fraunce: but that was after the death of *Stephen* earle of Bolloine nephew o *Henry*, in the right of his ſiſter *Adela*; in ſuch ſort, as that a coſin deſcended of a daughter was preferred before the kings own daughter: which daughters ſonne yet ſucceeded king *Stephen*, in ſuch ſort as that no womans gouernment ſeemed at all to haue bene. For which reaſon *Edward* the the third, king of England, vpon the difference which he had for the crowne of Fraunce, alleaged the kingdome of Fraunce by the right meaning of the law Salique, to belong vnto him: ſaying, That law to ſtand in force and take place, when the next heire male deſcended

The kingdoms of Hungarie, Polonia, Sweden, Norway, & Denmarke, Caſtile, Arragon, Nauarre, and England, to haue fallen into Gynocracy, or womens ſoueraigntie.

* But what troubles enſued vpon this intrusion of Stephen, and the wrongfull excluding of Maud, the Cronicles will declare.

A of the daughter (as was he frō *Isabel* sister to *Charles* the Faire) was preferred before him, who was descended of the heits male farther off. Which exposition for all that was reiected by the councell of France, as neuer to take place, but when heits male of the same name and stocke, in what line and degree soeuer it were viterly failed: & that the kingdome were in daunger to fall into election. And so albeit that the emperour *Charles* the fift marrying of his sister vnto *Christiern* king of Denmarke, and caused this clause to be inserted into the matrimoniall contracts: That the males sayling, the eldest daughter issuing of that marriage, should succeed vnto the kingdome: yet so it was neuerthelesse, that the estates of that countrey had thereof no regard, for that the kingdome went by election: yea so farre off was it, that such the kings priuat agreement could take from the nobilitie of Denmarke, the power to chuse their kings: or yet neuer any one of the same kings three daughters to raigne ouer them: as that the said king himselve was by the estates thrust out of his kingdome banished, and so afterwards also miserably died in prison. The Polonians also after the death of *Sigismundus Augustus*, excluded not onely the kings sister, but euen his nephew the king of Sweden his sonne also, who gaue a million of gold vnto the Commonweale, to haue his sonne afterward chosen: howbeit that their predecessours had before receiued *Hedwig* the daughter of *Lewes*: and that when as there was no heire male, neither in the direct nor collaterall line of the house of *Iagellon*, they neuerthelesse made choyce of *Henric* of Fraunce.

C Now if the princeesse the inheritrix shall marrie (which is necessarie, so to haue an assured successour) her husband must either be a straunger, or a subiect: if a straunger, hee will instruct the people in straunge lawes, in straunge religion, in straunge manners and fashions: yea and giue the honourable places and commaunds vnto straungers also. But as for a subiect, the princeesse would thinke her selfe much dishonoured, to marrie her seruant, seeing that soueraigne princes still make great difficultie to marrie a subiect. Ioyne hereunto also the ielousie that is to be feared, if shee shall marrie him whome she best loueth, reiecting the more noble and greater lords, who alwaies contemne them which are of base degree.

The inconueni-
ences by the au-
thor supposed to
ensue of a Gyna-
cocratic, or wo-
mens soue-
raintie.

And not to speake of many difficulties which fell out about these matters, euen the verie same, yea and greater too, presented themselues at the treatie of the marriage agreed vpon betwixt *Philip* prince of Castile, and *Mary* queene of England: wherein the first article contained, That no straunger being not a natutall English man botne, should bee preferred to any office, benefice, or charge whatsoeuer. And in the fourth article it was set downe, That *Philip* prince of Castile should not carrie the queene his wife against her will out of the realme of England, neither the children begot betwixt them two: the which articles were confirmed by the estates of the land, the second of Aprill, in the yeare one thousand five hundred fiftie three, where beside that which I haue said, it was also more solemnly prouided, That the queene alone and of her selfe should enioy all the royalties, and soueraigne rights of the said realms, lands, countreys, and subiects, absolutely; without that her husband should by the courtesie of England pretend any thing vnto the crowne and soueraignie of the realme, or other right whatsoeuer; and that the letters and mandates should be of none effect, if they were not signed by the queene, whatsoeuer signe or consent they had of her husband: and yet without which the consent of the queene should suffice. I haue also learned by the letters of *Nouaile* ambassadour of Fraunce, who then was in England, that it was also decreed, That no Spaniard should haue the keeping of any fortreffes or strong holds belonging vnto the Crowne of England, either on this side, or beyond the sea: neither that the Englishmen should by the Spaniards be constrained to goe vnto the wars out of the realme,

And albeit that a most gallant & mightie prince flourishing with kingdoms, wealth, youth, and friends, had married an old woman (for why, he seemed not to haue married a wife) and such an one as by whome he was not to hope for any issue, yet could not the Englishmen patiently endure the Spaniards to set any foot into England, with whome for all that they had neuer before had any hostilitie, but had alwayes bene great friends. Yea the emperour *Charles* the first on the other side wisely foreseeing all things, and fearing least some treason might be wrought against the prince his onely sonne, whome alone he had begot vnto the hope of so great an empire, required to haue fiftie young noble English gentlemen deliuered vnto him to be kept as hostages, so long as his sonne *Philip* was in England: howbeit that as such distrust drew after it the hatred of the English nation, so was also that article taken away, and nothing thereof obtained. But the marriage made, shortly after about 18 hundred English men, for religious sake went out of their countrey, into voluntarie exile and banishment. And yet beside all this, the same was, how that the English men had conspired at one and the very selfe same instant, to haue slaine all the Spaniards: for that (as the report went) they vnder the colour of a marriage, and of religion, went about to aspire vnto the soueraigntie of England. Neither was it to haue bene doubted, but that the conspiracie of the English men had sorted to effect, or els that the Spaniards had effected their designes, and so taken vnto themselues the soueraigntie, had not the death of the queene (very profitable for the kingdome) giuen an end vnto the designes both of the one and of the others.

For neuer strange prince can be assured of his life, commaunding in a strange countrey, if he haue not strong guards, for the assurance of his person, and sure garrisons for the keeping of his castles and strong holds. For being maister of the forts, hee must needs be also maister of the estate: for the more assurance whereof hee must alwayes aduance straungers; a thing intollerable to euery nation in the world. Whereof wee haue a million of examples, out of which we will remember but one of our own: what time king *William* reigned in Sicilie, in the yeare 1168, the people of the kingdome of Naples were so incensed to see a French man promoted to the honour of the Chancellourship amongst them, as that they conspired at once to kill all the Frenchmen that then were in the kingdomes of Naples and Sicilie, as indeed they did. But if the domestical seruant of a straunge prince, shall chaunce to kill a naturall subiect in a strange countrey, or passe himsele in any insolence, dannger by and by hangeth ouer all the straungers heads, the least quartrell that may be seruing to cut the straungers throats, if they be not all the stronger. As it happened in Polonia during the raigne of the daughter of *Cazimire* the Great, king of Polonia, and wife to *Lewes* king of Hungarie, chosen also king of Polonia, to the great contentment of all the estates of that realme: and yet neuerthelesse for one Polonian slaine by an Hungarian gentleman, all the people of Cracouia ranne vpon the Hungarians, and in that hurle slue them all, except such as by chaunce saued themselues in the castle, who yet were there besieged together with the queene: neither was there any meanes to appease the peoples rage, but that the queene the inheritrice and mistresse of Polonia, must with all the Hungarians her followers void the realme. But yet greater butcherie was there made of them of Austria, in Hungarie, when *Mary* the eldest daughter of *Lewes* king of Hungarie, had married *Sigismund* archduke of Austria, who going about to take vpon him the gouernment, was by his wiues mother (a most ambitious woman) driuen out of the kingdome: who not able to endure to see him raigne, to be sure to shut him quite out, was about by her ambassadours to haue called in *Charles* the French king, and so to haue put the kingdome into the power of the French. Which the Hungarians perceiuing, sent for

Charles

The great dangers strange princes commaunding in a strange countrey, are still exposed vnto.

Small occasions serue to stirre vp the natural people of any countrey against strangers dwelling amongst them.

- A** *Charles* the king of Naples, and vncle to *Mary*, *Sigismund* his wife, to take vpon him the gouernment of the kingdome of Hungarie: who was no sooner come, but that he was by the practise and commaund of the cruell queene Mother (whome hee least feared) slaine: which murder was with like crueltie also reuenged, thee her selfe being by like treason by the gouernour of Croatia slaine, and her bodie throwne into the riuer. After whose death *Sigismund* returning with a strong armie, put himselfe in full possession of the kingdome, wherof he now disposed at his pleasure, and filled all places with the slaughter of them which were of the faction against him. But let vs come to our owne domesticall examples, and vnto those wounds which but lately receeued, bleed with the least touching, neither can but with most bitter griefe be felt. *Frances* duke
- B** of Alanson being sent for, came to take vpon him the gouernment of the Low countries, where he was with great ioy and triumph receiued: but hauing no strong garrisons, no strong castles, nor cities to trust vnto, neither could by my intreatie (who foresaw what would afterwards happen) be perswaded so to haue; receiued such a slaughter and disgrace, as I cannot without much griefe remember the same. And to go farther, we haue examples of the Scots yet fresh in memorie, who for the space of seuen hundred yeares, had with the straittest alliance that might be, bene allied vnto the house of Fraunce, and from thence receiued all the fauors that it was possible for them to hope for: yet when *Mary* queene of Scots had married *Frances* the Dalphin of France, and
- C** that the Frenchmen went about to dominier ouer the Scots, they forthwith chose rather to cast themselues into the lap of the English, and so to put themselues into the protection of them with whome they had not before so well agreed, than to endure to see the Frenchmen to commaund in their countrey: neither ceased they vntill that by the helpe and power of the English, they had driuen the Frenchmen againe quite out of Scotland. Neither are strange princes to hope, by reason to rule the desires of so-ueraigne princeesses their wiues: from whom if they will seeke to be diuorced, they must also banish themselues. For what prince euer bare himselfe more modestly, than did the wise emperour *Marcus Aurelius*? And yet when he with too much patience bare with the wantonnesse of his wife *Faustine* (as some of his friends thought) who for her too dissolute life would haue perswaded him to haue bene diuorced from her; Then must
- D** we (said he) againe vnto her restore her dowrie: which was euen the Roman empire, howbeit that he had the empire in the right of himselfe also, by the adoption of *Antoninus Pius* the father of *Faustine*.
- And yet there is another danger also, if the princeesse heire vnto a soueraigne estate be disposed to marry a straunger; which is, that the neighbour princes and people also, as wooers, enter into diuers iealous conceits one of them against another: & so struing for another bodys kingdome, oftentimes turne the queene from marrying at all. Yea sometimes also seeking euen by force of armes to haue her: as did the wooers of *Venda* queene of Russia, who hauing long sought who should haue her, the victor thought at last by force to haue obtained that which he by long sute and entreatie could not gaine:
- E** howbeit that she seeing no other remedie, but to fall into his hands, for despight drowned her selfe, chusing rather to loose her life, than by force to loose her chastitie. Neither are queenes marriages so easily made as are kings: for why, kings are oftentimes deceiued with painted tables, and counterfeits, marrying them by their deputies whom they neuer saw: whereas queenes will most commonly see the men themselues aliue, talke with them, and make good prooffe of them: yea and oftentimes refuse them also after that they haue seene them. For neither would *Isabel* queene of Castile, marrie *Ferdinand* before she had seene him: neither could *Elisabeth* queene of England be by any man perswaded to promise marriage vnto any man, but vnto himselfe present. And

Neighbor princes
iealous of the
marriage of a so-
ueraign princeesse
their neighbour.

Women com-
monly more cu-
rious in choice of
their husbands,
than are men in
choyce of their
wiues.

so it was answered vnto *Henry* king of Sweden, seeking the long ambassage of *John* his brother, who now raigneth, to haue married her : answer (I say) was made, That of al the princes in the world, there was none vnto whome (next vnto almightie God) shee was more in kindnesse beholden, than vnto the king of Sweden, for that hee alone had requested to haue had her for his wife, whilest she was yet a prisoner, and so out of prison to haue brought her vnto a kingdome : neuerthelesse to haue so resolved and set downe with her selfe, neuer to marry any man whom she had not before seene. Which aunswere made also vnto the archduke of Austria, suing vnto her for marriage, in part brake off the hope which both of them had conceiued of marriage, both of them fearing in prefence to suffer the disgrace of a deniall ; and especially he, least he should be enforced with shame to returne home. As afterwards it happened vnto *Francis* duke of Alanson, seeking to haue aspired vnto the same marriage, who although hee had twice passed ouer into England, and thought the queene by long and honourable ambassages, as it were affianced vnto him, yet returned hee, fed vp but with a vaine hope, and the matter left vndone.

Now if the law of nature be violated in the soueraigne gouernment of women, yet much more is the ciuill law, and the law of nations thereby broken, which will that the wife follow her husband, albeit that he haue neither fire, nor dwelling place. Wherein all the lawyers and diuines in one agree ; and that she ought to reuerence her husband : as also that the fruits of the wiues dowrie, yea euen of all the wiues goods, belong vnto her husband ; not onely such as arise of the lands themselves, but euen such as fall vnto her by escheat, or confiscation of the goods of the condemned ; howbeit that such goods be a thousand times better, or more worthy, than the wiues fee brought in dowrie vnto her husband : yet neuerthelesse do all such things in propriety belong vnto the husband, what lordship soeuer that it be, which is so fallen by escheat or confiscation : as also all fruits of dowrie, and the rights of patronage depending of the wiues dowrie : which we see to haue bene vsed not of priuat men onely, but euen of kings also : as if a straunger shall marrie a queene, the profits of the kingdome shall belong vnto the husband, although the soueraignie, and kingdome it selfe belong still vnto the wife. For so the interpretors of the law decide it, and that by the example of *Isabella* and *Socina*. Moreouer it is holden in law, That the wiues vassall ought to succour the husband before the wife, in case they be both of them in like daunger : all which is directly contrary to such conditions, and lawes, as princes straungers are enforced to receiue from their wiues, being princesses inheritors. Besides that, honor, dignitie, & nobilitie, dependeth wholly of men, and so of the husband, and not of the wife : which is so true by the receiued customes and laws of all people : as that noble women which marrie base husbands in so doing loose their former nobilitie : neither can their children challenge vnto themselves any nobilitie by the mothers side : which *Ancaran* the lawyer saith to take place euen in queenes which marrie base men, no princes : of which opinion the rest of the lawyers are also.

All these absurdities and inconueniences follow womens soueraignie in gouernment, which thereof tooke beginning : for that they which had no male children, had rather their daughters should succeed in their lands and fee, than such as were not of their stocke and house, and especially the heires male failing, both in the direct & collateral line : after which point so by them gained, they began to succeed also vnto lands and fees in the right line, and were preferred before the males in the collateral line : which manner of inheriting was by little and little permitted to be vnderstnod, and extended also vnto Honours, Dignities, Counties, Marquisats, Dutchies, Principalities, yea and at last euen vnto Kingdomes. Howbeit that by the lawes of Fees, women

- A were excluded from all succession in fee, although there were no heites male either in the direct or collaterall line, except it were so expressly set downe in the inuestiture of the fee. But the law Salique cutteth the matter short, and expressly forbiddeth, That the woman should by any meanes succeed into any fee, of what nature or condition soeuer it were: which is no late, new, or fained law, as many suppose, but written and enrolled in the most auntient lawes of the Saliens, the words of which law are these, *De terra vero Salica nullo portio hereditatis mulieri veniat: sed ad virilem sexum tota terra hereditas perveniat*: In English thus, But of the land Salique no portion of the inheritance shall come vnto a woman: but all the inheritance of that land shall come vnto the male sexe. And so also in the edict or decree of *Childebert* king of Fraunce, is even the very
- B same comprehended which is in the lawes Salique, where the nephewes being in direct line, by way of *representation together called vnto the succession of their grandfather, the women are still excluded. And yet if there had bene no law Salique, at such time as contention was for the kingdome of Fraunce, betwixt *Philip* earle of Valois, and king *Edward* of England: *Philip* alleaging for himselfe the law Salique, according to the law Voconia; and *Edward* defending his cause and right by the auntient Roman lawes, concerning inheritance: a decree was made by the generall consent of all the Senators and princes of Fraunce, *Ne quis in ea disceptatione peregrinarum legum auctoritate uteretur: sed legem quisque Salicam pro suo iure interpretari studeret, viz.* That no man in that controuersie should vse the authoritie of foraine lawes; but that euery
- C man according to his right should interpret the law Salique. And why so if there had bene no Salique law at all? And howbeit that after the death of *Lewes Hutin* the king of Fraunce, the duke of Burgundie called *Jane* the daughter of *Hutin*, vnto the succession of her fathers crowne and kingdome: yet was it by the generall consent of all the estates assenbled in parliament at Patis, resolved to the contrarie, As that daughters should not succeed vnto the crowne: & so the opinion of the duke was reiected. About which time, or a little before, *Baldus* called the law Salique, or the custome for the males onely to succeed vnto the crowne, *Ius gentium Gallorum*, The law of the French nation. Neither is it long agoe, since that in a suit in the parliament of Burdeaux, betwixt certaine gentlemen about the right of their gentrie; a will was brought out, written in most auntient letters, wherein the testator diuided vnto his sonnes his Salique land; which the judges interpreted to be his prediall fees, or reuenewes in land. Which was alwayes in Germanie obserued also, vntill that the emperour *Frederike* the second gaue this priuilege as a singular benefit vnto the house of Austria, That the line of the males failing, the daughters or females might succeed. Which thing the emperour could not doe, without the expresse will and consent of the estates of the empire. For which cause *Othocarus* king of Bohemia, being also of the house of Austria, without regard of *Frederikes* graunt, by right of kindred claimed the dukedome of Austria, and leuied a strong army against *Rodolph*, who by vertue of *Frederikes* graunt, claimed the dukedome as belonging vnto himselfe. Which priuilege for women so to succeed, was afterwards extended vnto the princes of the house of Bauiere also. Yet was there neuer
- E people so effeminate, or cowardly, as vnder the colour of succession in fee, to endure that women should step into the soueraignie: and yet lesse in Asia, and in Affrike, than in Europe. Howbeit that with whatsoeuer madnesse other princes and people haue bene astonied, which haue endured womens soueraignie, yet haue the Frenchmen (God be thanked) by the benefit of the law Salique, alwayes hitherto preserued themselves from this disgrace. For why, this Salique law which *M. Cirier* Councillour of the parliament, said to haue bene made with a great quantitie of the salt of wisdom, was not onely alleaged and put in practise, in the raigne of *Philip Valois*, and of *Charls*.

* Representation is, when diuers children together represent their dead fathers person, and so in his right, together with their vnclcs succeed into their grandfathers inheritance

Poore French shifts, for the auouching and prooofe of the Salique law.

now the law is called the law of the French nation

the Faire, against whome the daughters pretended no claime vnto the kingdome: but also in the time of *Clothaire*, *Sigebert*, and *Childebert*, who were all preferred before the kings their predeceffours daughters, who neuer laid claime vnto the crowne. And that is it for which *Baldus* the notable lawyer, speaking of the house of Burbon, holdeth, That the male of the same blood and name, beeing a thousand degrees off, should sooner succeed vnto the crowne and kingdome of Fraunce, than any woman much neerer. Which is not onely to take place in kingdomes; but euen in dukedoms and other principalities also, which haue the marks and rights of soueraignie belonging vnto them. Which lawes also we see all people, excepting some few, to haue alwayes before embraced. And so the princes of Sauoy, by the authoritie of this Salique law, haue alwayes excluded the women from the gouernment: for so wee read *Constance* the daughter of the duke of Sauoy, to haue by *Peter* of Sauoy her vnle bene excluded from the gouernment: and that euen by the sentence and doome of the judges and arbitrators, chosen for the deciding of the matter in the yeare one thousand two hundred fiftie six. Yet doubt I not but that many are afraid of womens soueraignie, who yet indeed doubt not to shew themselues most obedient vnto womens lusts. But it is no matter (as old *Cato* was wont to say) whether that the soueraignie it selfe be giuen to women; or that the emperours and kings bee themselues obedient vnto womens pleasures and commands.

Seeing then it appeareth plainly enough (as I suppose) the estate of a Monarchy to be of all other estates most sure; and amongst Monarchies, the Royall Monarchy to be best: as also amongst kings them to excell which bee descended from the race and stocke of kings: and in briefe, that in the royall race the neereft of the blood is still to be preferred before the rest that were farther off: and that the soueraignie (the female sexe excluded) ought to bee still vndiuided. Let vs now also at last see how it ought to be gouerned, as whether by iustice Distributiue, Commutatiue, or Harmonicall. For why, the fairest conclusion that can bee made in this worke, is to conclude of iustice, as the foundation of all Commonweales, and of such consequence, as

that *Plato* himselfe hath entituled his bookes of Commonweales, *Bookes of Law, or of Iustice*, howbeit that he speaketh in them rather like a Philosopher, than a Lawgiuer, or Lawyer.

(***)

CHAP.

Iustice the foundation of all Commonweales;

A

CHAP. VI.

Of the three kinds of Iustice, Distributive, Commutative, and Harmonicall : and what proportion they haue vnto an estate Royall, Aristocratique and Popular.

B



Et vs then say in continuing of our purpose, that it is not enough to maintaine, that a Monarchy is the best estate of a Commonweal, & which in it hath the least inconuenience; except wee also (as we said) add therewith, a Monarchy Royall. Neither yet sufficeth it to say, that the Royall Monarchy is most excellent, if we should not also shew that vnto the absolute perfection thereof it ought to be fast knit together by an Aristocratique and Popular kind of government: that is to say, by an Harmonicall mixture of Iustice, composed of

C

Iustice Distributive, or Geometrical; and Commutative, or Arithmetical: which are proper vnto the estates Aristocratique, and Popular. In which doing, the estate of the Monarchy shall be simple, and yet the government so compound and mixt, without any confusion at all of the three kind of Estates, or Commonweales. For wee haue before shewed, that there is great difference betwixt the mingling, or rather confounding of the three estates of Commonweales in one (a thing altogether impossible) and the making of the government of a Monarchy, to bee Aristocratique and Popular. For as amongst Monarchies, the Royall Monarchy so gouerned (as I haue said) is the most commendable: euen so amongst kingdomes, that which holdeth most, or cometh neerest vnto this Harmonicall Iustice, is of others the most perfect. Which things for that they may seeme obscure, neither are to my remembrance by any mans writings declared; I must endeavour my selfe that they may by manifest and plaine demonstration be vnderstood. Iustice therefore I say to be *The right diuision of rewards and punishments, and of that which of right vnto every man belongeth*; which the Hebrewes by a straunge word call *Credata*: for the difference betwixt this and the other Iustice given vnto men by God, whereby we are iustified, which they call *Tsedaca*. For that by these, as by most certaine guides, wee must enter into this most religious and stately temple of Iustice. But this equall diuision which we seeke for, can in no wise be accomplished, or performed, but by a moderat mixture, and confusion of equalitie, and similitude together, which is the true proportion Harmonicall, and whereof no man hath as yet spoken.

D

E

Plato hauing presupposed the best forme of a Commonweale, to be that which was composed of a Tyrannicall and Popular estate: in framing the same, is contrarie vnto himselfe, hauing established a Commonweale not onely Popular, but altogether also Popularly gouerned; giuing vnto the whole assembly of his citifens, the power to make, and to abrogat lawes, to place and displace all manner of officers, to determine of peace and warre, to iudge of the goods, the life, and honour, of euery particular man in soueraigntie: which is indeed the true Popular estate, and Popularly also gouerned. And albeit that he had so (as we say) formed his Commonweale, yet neuerthelesse hee said, That the Commonweale could neuer be happie, if it were not by Geometrical proportion gouerned; saying that God (whome euerie wise lawmaker ought to imitate) in the government of the world alwayes vseth Geometrical proportion. The same *Plato* hauing also (as some say) oftentimes in his mouth these three words, *ἀ*

That a Royall Monarchy ought to be knit together with a certaine kind of mixture of the Aristocratike & Popular government, the royalty yet standing whole and pure, without any mixture of those estates.

The definition of Iustice.

τον Θεου γεωμετρίαν, which is to say, *God alwayes to be playing the Geometritian*: which words indeed fauour well of *Plato* his stile, howbeit that they be not in all his works to be found. F

Now certaine it is, that Distributiue, or Geometricall Iustice, is most contrarie vnto the Popular estate and gouernment by *Plato* set downe: the people still seeking after nothing more, than for equalitie in all things; a thing proper vnto Commutatiue, or Arithmetical Iustice. Which was the cause for which *Xenophon* (*Plato* his companion, and both of them ialous one of anothers glory) being of opinion, That Commonweales ought to be framed, and the lawes administred according vnto Arithmetical proportion and equalitie, bringeth in *Cyrus* yet a boy, corrected and chastised, for that he being chosen king, had chaunged but the seruants garments, appointing better apparell vnto them of the better sort, and meaner vnto them of the meaner sort: as hauing therein regard vnto decencie, and the proportion Geometricall. After which chastisement, *Cyrus* is by his maister taught, to giue vnto euery man that which vnto him belongeth, and to remember that he was a Persian borne, and was therefore to vse the Persian lawes and customes, which gaue vnto euery man that which was vnto him proper: and not the manners and fashions of the Medes, who thought it meet, that to be vnto euery man giuen, which was decent and conuenient for him. Which writings of *Xenophon*, *Plato* hauing read, and knowing right well that it was himselfe, and not *Cyrus*, which had bene corrected; forthwith reprobued the *Cyropædia*, without naming of any partie. This diuersitie of opinions, betwixt *Xenophon* and *Plato* (famous among the Greeks) was the cause of two great factions, the one of the Nobilitie and richer sort, who held for Geometricall Iustice, and the Aristocraticall estate; the other of the baser and poorer sort, who maintained Commutatiue or Arithmetical Iustice, and therefore wished to haue had all estates and Commonweales Popular. Now of these two factions arise a third, which was of opinion, That in euerie Commonweale Arithmetical Iustice was to be kept in iust equalitie, when question was of the goods of any one in particular, or for the recompensing of offences and forfeitures: but if question were of common rewards to be bestowed out of the common treasure, or for the diuision of countries conquered, or for the inflicting of common punishments, that then Distributiue, or Geometricall Iustice, was to be obserued and kept, hauing regard vnto the good or euill deserts, and the qualitie or calling of euery man: insomuch that these men vsed two proportions, and yet for all that diuersly, sometime the one and sometime the other: as *Aristotle* said it ought to be done, but yet not naming either *Plato* or *Xenophon*, who yet had both first touched this string. G
H
I

But as for Harmonicall Iustice, not one of the auncient writers either Greekes or Latines, neither yet any other, euer made mention, whether it were for the distribution of Iustice, or for the government of the Commonweale: which for all that is of the rest the most diuine, and most excellent and best fitting a Royall estate; gouerned in part Aristocratically, and in part Popularly. But forasmuch as this point we heare speake of, euill vnderstood, draweth after it a number of errorrs, whether it be in making of laws, or in the interpretation of them, or in all sorts of iudgements; and to the end also that euerie man may vnderstand, that this third opinion of *Aristotle* can no more be maintained than the other; it is needfull for vs to borrow the principles of the Mathematicians, and the Lawyers resolutions. For why, it seemeth that the Lawyers for not regarding the Mathematicians, and Philosophers, as not hauing iudicial experience, haue not declared or manifested this point, which is of right great consequence (as I haue said) and that as well for the administration of Iustice, as for the maintaining of the affaires of state, as also of the whole Commonweale in generall. K

Now

Plato couertly by
Xenophon re-
probued, for ap-
pointing his
Commonweale
to be gouerned
by Geometricall
Proportion.

Harmonicall
Iustice of all
others the best.

A Now the Geometrical proportion is that which is made of an vnequall excesse of like magnitudes among themselues : but the Arithmetical proportion is euery way both in progresion, and excesse equall : and the Harmonicall proportion is of them both, by a wonderfull cunning (confused and combined together) made, and yet is vnto them both vnlike : the first of these proportions is semblable, the second is equall, & the third is in part equall, and in part semblable; as is to be seene by the examples in the margent set : where the proportion is treble of 3 to 9, and of 9 to 27, and of 27 to 81 : and the proportion Arithmetical following, beginneth of the same number of 3, and the same difference of 3 to 9 : but the difference of 9 to 15 is not like, but yet equall : for betwixt these numbers there are alwayes six differing. And the proportion Harmonicall beginneth of 3 also, but the differences are not alwayes alike, neither altogether equall also, but therein is both the one and the other sweetly mixt and combined together, as may well by Mathematicall demonstrations be vnderstood, whereinto it is not needfull for vs further at this time to enter : howbeit that certaine markes of them manifest enough, are in the auntient Roman lawes to be found ; and by numbers in Geometrical proportion set downe and reported. But the difference of the Geometrical and Arithmetical proportion, is in this to be noted, That in the proportion Arithmetical are alwayes the selfe same reasons, and the differences equall : whereas in the Geometrical proportion they are alwayes semblable, but not the selfe same, neither yet equall : except a man would say, that things semblable are also equall ; which were nothing else, but improperly to speake : so as *Solon* did, who to gaine the hearts both of the nobilitie, and of the people of *Athens*, promised to make them lawes equall for all sorts of men : wherein the nobilitie and better sort of the people thought him to haue meant the Geometrical equalitie; and the common people, the Arithmetical; and so to haue bene all equall : Which was the cause that both the one and the other by common consent made choyce of him for their lawmaker. Wherefore the Geometrical gouernment of an estate is, when like are ioyned with like : as for example, by the laws of the twelue Tables, the *Patricij*, or Nobilitie, was forbidden to marrie with the commonaltie, and order taken, that noble men should marrie none but noble women : and they of the baser sort such also as were of like condition with themselues, slaues also marrying with slaues, as differing from both the other sort. Which law is also yet inuiolably kept among the *Rhagusiens*. So were to be deemed also, if the law were; that princes should not marrie but with priuces, the rich with the rich; the poore with the poore, and slaues with slaues, by a Geometrical proportion. But if it were by law provided, that marriages should be made by lot : that law would bee vnto the people most acceptable and pleasing, to make all equall : for that so the noble and rich ladies should by lot oftentimes fall vnto the poore and baser sort of men; the slaue might marrie the prince, the base artificer might haue to wife a woman honourably descended, most vnlike to his estate : So that by lot should the Popular equalitie bee preserved, agreeing with the Arithmetical proportion : but the wealth and dignitie of the nobilitie and richer sort be quite ouerthrowne. And that is it for, which *Euripides* saith, A lawfull equalitie to be most agreeable vnto mans nature, *ἡ γὰρ ἰσὺν νόμιμον ἀνθρώποις ἐστίν*. But both these formes of gouernment according to either Arithmetical, or Geometrical proportion, draw after them diuers inconueniences : For in the one the poorer and vulgar sort are cast downe, and in the other the nobilitie and richer sort are contemned and disgraced. Whereas the Harmonicall manner of gouernment, with a most sweet consent, preferueth both (so much as possibly is) not confounding all sorts of people hand ouer head together. And not to go out of the example by vs propounded of marriages, he that would keepe the Harmonicall gouernment, should not re-

Three kinds of proportion.
Proportion Geometrical, 3, 9, 27, 81.
Proportion Arithmetical, 3, 9, 15, 21, 27.
Proportion Harmonicall, 3, 4, 6, 8, 12.

The difference betwixt Geometrical and Arithmetical proportion.

The Geometrical gouernment of an estate.

The gouernment of an estate by Arithmetical proportion.

The gouernment according vnto the Geometrical or Arithmetical proportion hurtfull, the one vnto the common people, and the other vnto the nobility : whereas the Harmonicall gouernment preferueth both the one and the other.

The wonderfull
curiositie of the
Germans, in the
marriage of the
nobilitie.

quire in the marriages of the nobilitie, the noble descent too farre set both on the one F
side and the other: as many of the Germans most daungerously doe, who most curi-
ously search out their great great grandfathers fathers, of like nobilitie on both sides, to
ioyne together their nobilitie in marriage: which is too farre to remoue and seperat the
nobilitie, not from the baser sort onely, but even from it selfe also; considering that they
content not themselves, that the gentleman be noble by the father onely, as it sufficeth
in the kingdome of Polonia, by the decree of *Alexander* king of Polonia: or by the
father, and the grandfather, as is sufficient in this realme, by a law of king *Frances* the 1:
or by father, and mother, and grandfather, on both sides, as is set downe by the new de-
crees of the knights of Sauoy: but they will that the right gentleman shew that hee is
descended of two hundred and threescore noble persons, if the interpretation that many G
giue of a right gentleman be true: Some others will haue seuen degrees of nobilitie to
suffice, deriued from the fathers and mothers side without disparagement. But such
lawes are daungerous, and full of seditions: and for this cause the law concerning mar-
riages, which *Appius* the Decemuir is said to haue put into the Twelue Tables, was
at the motion of *Canuleius* the Tribune as daungerous, repealed: for that thereby the
subiects loue was rent in sunder, and the citie by seditions ouerthrowne: which tumults
and seditions the law being once abrogated, and alliances made betwixt the nobilitie
and the comminaltie, vpon the sudden ceased: howbeit that noble women haue sel-
dome married from the nobilitie, but noble men haue oftentimes married with meane
women: for that nobilitie is still to bee obtained from the father. And indeed it best H
agreeth with Harmonicall proportion, if a rich base woman marrie with a poore gen-
tleman; or a poore gentlewoman with a rich common person: and she that in beauty
and feature excelleth, vnto him which hath some one or other rare perfection of the
mind: in which matches they better agree, than if they were in all respects equall: as
amongst marchants there is no partnership or societie better, or more assured, than
when the rich lazie marchant is partner with the poore indoltrious man; for that there
is betwixt them both equalitie, and similitude: equalitie, in that both the one and the
other haue in them some good thing: and similitude, in that they both two haue in
them some defect or want. And this is it for which the aunient Greekes aply fained,
Loue to haue bene begotten of *Porus* and *Penia*, that is to say, of *Plentie* and *Povertie*, I
loue growing betwixt them two: so as in song the Meane betwixt the Base and the
Treble, maketh a sweet and melodious consent and harmonic: For why, it is by nature
to all men engrafed, for them still to loue most, the thing themselves want most: so
commonly the foule seeketh after the faire; the poore, the rich; the coward, the vali-
ant: whereas if the rich and noble should likewise marrie with the noble and rich, they
should one of them make lesse account and reckoning of the other, for that one of them
little wanted the others helpe. For as the maister of a feast ought not without discre-
tion to place his guests hand ouer head, as they first came into the house, without any
respect had of their age, sexe, or condition: so also ought he not to set all his best guests
in the highest and most honourable places: neither all the wise men together with the
wise, neither old men with old men, nor young men with young men; women with K
women, nor foole with foole: following therein the Geometricall proportion, which
seeketh after nothing else but the semblableness of things; a thing of it selfe foolish and
vnpleasent. But the wisest maister of a feast will place and enterlace quiet men betwixt
quarrellers, wise men amongst fooles; that so they may by their talke in some sort as
with a medicine be cured: so betwixt cauillers shall he set a quiet man, and vnto an old
babler ioyne a still and silent man; so to giue him occasion to speake, and reach the
other to speake lesse: by a poore man he shall place a rich, that so hee may extend his
bountie

Harmonical pro-
portion good to
be in marriage
observed, and so
likewise in the
gouernment of
the whole Com-
monweale.

Harmonical pro-
portion declared
by the order to be
kept in a feast.

A bountie vnto him, and he againe for the same of the other receiue thanks: so amongst seuerer and tetricall men, he shall mingle others of a more ciuill and courteous disposition; in which doing he shall not onely auoid the enuie and heart-burning of such as might complaine themselves to be placed in too low places, or not in such order as they desired (a thing hardly to be auoided where question is of degree and place;) but also of such a most beautifull harmonickall, and orderly placing, shal arise a most sweet consent, as wel of euery one of the guests with other, as also of them altogether. Which beautifullnesse of Harmonickall order, he which will with Geometricall semblableness, or Arithmetickall confusion, inuert or trouble, he shall so take from out of the feast all the profit, all the sweetnesse, and loue, which should still be amongst guests. And for this

B cause men say, *Scipio Africanus* to haue bene blamed by the wiser sort of men, and such as saw farthest into matters of state, for that hee first of all others had made lawes concerning the Theatre, giuing therein the first places vnto the Senators, and so in the beholding of the playes separating them from the people; when as by the space of 558 yeares before, euen from the foundation of the citie, the Senators had indifferently together with the poore stood to behold the playes: which separation so made, much alienated the one of them from the other, and was the cause of many great and daungerous tumults and broyles afterwards in that Commonweale. Neither is it enough that the lawes and magistrats constrain the subiects for feare of punishment to forbear to wrong one another, and so to liue in peace; but they must also bring to passe, that although there were no lawes at all, yet they should be at vnitie amongst themselves, and one of them still loue another. For that the foundation of marriages, as all other humane societies, which are almost innumerable, resteth in loue and friendship, which cannot long continue without that Harmonickall & mutual concord which I haue already spoke of: and which cannot possibly either by Geometricall or Arithmetickall Iustice & gouernment be done, for that the proportion both of the one & of the other, is for most part disioyned and separat: whereas the nature of the Harmonickall proportion alwaies vnitheth together the extreames, by reason that it hath accord both with the one and with the other: as by the examples propounded we are taught.

Scipio blamed for hauing vsed the Geometricall proportion in the placing of the Senators in the Theater.

Loue the foundation of all humane societies, not to be preferred by Geometricall, or Arithmetickall, but by Harmonickall proportion of iustice

D Now the equall gouernment and by proportion Arithmetickall, is naturall vnto Popular estates, who would that men still should equally diuide estates, honours, offices, benefits, common treasures, countries conquered: and if lawes be to be made, or officers ordained, or that iudgement be to be giuen of life and death, their desire is, that all the people should thereunto be called, and that the voice of the greatest foole and bedlem should be of as great weight and force, as the voyce of the wisest man: in briefe, the more popular sort thinke it best, that all should be cast into lot and weight: as the ancient Greekes, who in three words set forth the true Popular estates, *πάντα συγχοῖς καὶ κλήροισι*, which is to say, *All by lot and ballance*: or else to measure all things by a most right rule, and euery way with Arithmetickall proportion equall. Which for that it is most stearne and inflexible, is after our phrase called *Right*, and to do iustice, is said, *To do Right*: which maner of speech seemeth to haue bene taken from the Hebrews, who call their bookes of Law and Iustice, *ספר חוקים*, that is to say, *The Booke of Right*, or as the Chaldean interpreter translates it, *The Booke of Rightnesse*: either for that the way of vertue and iustice hath no windings or turnings, nor suffereth vs this way or that way to turne out of the right way; or else for that it is the selfe same vnto all men, without respect of any mans person, not to bee moued with loue or hatred towards any man. Such an one as many haue thought *Policletus* his rule to haue bene, so straight and hard, as that it might more easily be broken than bowed either vnto the one side or the other: vnto the patterne & straightnesse whereof all artificers directed their rules. Such

The equall gouernment of Arithmetickall proportion, becometh Popular estates.

is also the forme of a Popular gouernment, when all goeth by lot, and by strait and immutable lawes, without any iust and indifferent interpretation, without any priuilege or acception of person: in such sort, as that the nobles are subiect euen vnto the selfe same punishments that the baser sort are; the fines and penalties being alike vppon the rich and vpon the poore, and the like reward appointed for the strong, and for the weake, for the captaine, and for the souldiour. E

The Geometrical
proportion best
to agree with the
Aristocraticall

But now to the contrarie, the Aristocratike gouernment according to Geometrical proportion, is like vnto the Lesbian rule, which being made of lead, was euery way so pliant and flexible, as that it might be vnto euery stone so aptly fitted and applied, as that no part (so much as possible was) might thereof be lost: whereas others, who were wont to apply the stone vnto the straight rule, oftentimes lost much thereof. So say some, that iudges ought in iudgement to apply the lawes vnto the causes in question before them, and according to the varietie of the persons, times, & places, so to decline from that inflexible straightnesse. Howbeit in mine opinion, as it is impossible for a rule so pliant euery way, as was the Libian Rule, to keepe the name of a rule: so must also the strength and name of the law perish, which the iudge may at his pleasure euery way turne like a nose of waxe, and so become the master and moderator of the law, whereof indeed he ought to be but the vpriht minister. G

Wherefore a little to decline from that inflexible straightnesse of *Polycletus* his rule, as also from the vncertaine pliantnesse of the Lesbian rule, that is to say, from the Arithmetical, and Geometrical proportion of gouernment of estates; a certaine third kind of rule is by vs to be deuised, not so stiffe, but that it may bee easily bowed when need shall be, and yet forthwith become also straight againe: that is to say, Harmonicall Iustice: which I thinke may well bee done, if wee shall conclude and shut vp the gouernment of estate within those foure tearmes which wee haue before combined, *viz.* the Law, Equitie, the Execution of the law, and the Office or Dutie of the Magistrat or Iudge: whether it be in the administration of iustice, or the gouernment of the estate: which haue amongst themselues the same proportion which these foure numbers haue, *viz.* 4, 6, 8, 12. For what the proportion is of 4 to 6, the same the proportion is of 8 to 12: and againe the same reason is of 4 to 8, that there is of 6 to 12. So the Law also hath respect vnto Equitie; as hath the Execution of the Law, vnto the Dutie of the Magistrat: or els contrariwise, For Execution serueth vnto the Law, as doth the Dutie of the Magistrat vnto Equitie. But if you shall transpose these numbers before set in Harmonicall proportion, and so make the Magistrat superiour vnto Equitie; and the Execution of the Law, to be aboue the Law it selfe; both the Harmonie of the Commonweale, and musicall consent thereof, shall perish. As for Geometrical proportion, the tearmes thereof being transposed, is yet alwayes like vnto it selfe, whether it be in continuall proportion, as in these foure numbers, 2, 4, 8, 16; or in proportion disioyned, as 2, 4, 3, 6: conuert the order of the numbers, and say, 6, 3, 4, 2, or 3, 2, 4, 6; or in what order soeuer you shall place them, there shall alwayes be the same proportion of the first vnto the second, which is of the third vnto the fourth; and againe of the first vnto the third, which is of the second vnto the fourth. And albeit that a continuall proportion is more pleasing than that which ariseth of diuided numbers, yet maketh it of it selfe no consent; as for example, 2, 4, 8, 16: and much lesse if it consist of Arithmetical proportions, whether that they be diuided in this sort, 2, 4, 5, 7, or els ioyned as 2, 4, 6, 8: both which proportions as farre differ from Harmonicall proportion, as doth warme water from that which is most cold, or else scalding hoat. And so in like case may we say, that if the prince, or the nobilitie, or the people, all together hauing the soueraigntie, whether it be in a Monarchy, in an Aristocratike, or Popular estate, gouerne K

The Law. 4.
The Execution of the Law. 8.
Equitie. 6.
The Office of the Iudges. 12.

Geometrical or
Arithmetical
gouernment alone,
no fit meane
to maintaine a
Commonweale.

- A** gouerne themselves without any law, leauing all vnto the discretion of the magistrats, or else of themselves distribute the rewards and punishments, according to the greatnes, qualitie, or desert, of euery man; howbeit that this manner of gouernment might seeme in apparance faire and good, as not hauing therein either fraud or fauour (a thing for all that impossible :) yet for all that could not this maner of gouernment be of any continuance, or, assurance, for that it hath not in it any bond wherewith to bind the greater vnto the lesser, nor by consequence any accord at all: and much lesse shall it haue of suretie, if all be gouerned by equalitie and immutable lawes, without applying of the equitie thereof according vnto the particular varietie of the places, of the times, and of the persons: if all honours and rewards shall be giuen to all men indifferently, by Arithmetically proportion alike, without respect of honour, person, or desert: in which state of a Commonweale all the glorie of vertue must needes decay and perish. Wherefore as two simple medicines in the extremitie of heat & cold, and so in operation and power most vnlike one of them vnto the other, are of themselves apart vnto men deadly & dangerous; and yet being compound & tempered one of them with the other, make oftentimes a right wholesome and soueraigne medicine: so also these two proportions of Arithmetically and Geometrical government, the one gouerning by law onely, and the other by discretion without any law at all, do ruinate and destroy estates and Commonweales: but being by Harmonically proportion compounded and combined together, serue well to preserve and maintaine the same.

A fit comparison

Harmonically Iustice compounded of Arithmetically and Geometrical proportion of government, best for the preservation of a Commonweale.

- C** Wherefore *Aristotle* is deceived, in deeming the Commonweale then to be happy, when it shall chauce to haue a prince of so great vertue and wisdom, as that hee both can and will with greatest equitie, gouerne his subiects without lawes. For why, the law is not made for the prince, but for the subiects in generall, and especially for the magistrats, who haue their eyes oft times so blinded with fauour, hatred, or corruption, as that they cannot so much as see any small glympse of the beautie of equitie, law and iustice.

Lawes necessarie for the good government of a Commonweale, although the prince be neuer to wife or vertuous.

- D** And albeit that the magistrats were angels, or that they could not in any sort be misseled or deceived, yet neuertheless were it needfull to haue laws, wherewith as with a certaine candle, the ignorant might be directed in the thickest darknesse of mens actions; and the wicked for feare of punishment also terrified. For albeit that the eternall law of things honest and dishonest be in the hearts of euery one of vs, by the immortall God written, yet were no penalties so in mens minds by God registred, whereby the wicked might be from their iniurious and wicked life reclaimed. Wherefore the same immortall and most mightie God, who hath euen naturally engrafted in vs the knowledge of right and wrong, with his owne mouth published his laws, and thereunto annexed also penalties: before which lawes no penalties were appointed, neither any law maker so much as once before remembred or spoken of. For prooffe whereof let it be, that neither *Orpheus*, nor *Homer*, nor *Musaeus*, the most auncient Greeke writers; neither any other which were before *Moses* (who was more auncient than all the Paynim gods) in all their workes so much as once vse the word *Law*: kings by their hand, their word, and soueraigne power, commaunding all things.

No mention of law, before the law of God was giuen.

The first occasion of making of lawes, was the chaunging of Monarchies into Popular and Aristocratique Commonweales: which they first did at Athens, in the time of *Draco*, and afterward of *Solon*: and in Lacedemonia, in the time of *Lycurgus*, who tooke from the two kings the soueraignty. Whose examples the other cities of Greece and Italie set before themselves to behold and imitate, viz. The Dorians, the Ionians, the Cretensians, the Locrenians, they of Elis, Crotona, Tarentum, and Rome, with diuers other townes in Italie: in which cities the people were euer at variance and discord

The first occasion of the making of lawes:

Laws hatefull
vnto the rich and
mightie.

with the nobilitie; the poorer sort still seeking to be equall with the noble and richer: which could not possibly be, but by the equalitie of lawes; which lawes they of the richer on the contrarie side vtterly reiected, seeking by all meanes to be therefrom free & priuileged: as they who with their wealth & power defended the Commonweale; and therefore thought it reason in honours and preferments, to bee aboute them of the inferiour sort: who indeed hauing so got the great estates and principall charges in the Commonweale, alwayes fauoured the richer sort, and them that were like vnto themselves, still contemning and oppressing the poore. Whereof proceeded the hard speeches and complaints of them of the meaner sort: which that they might in the citie of Rome haue some end, *Terentius Arsa* Tribune of the people, in the absence of the Consuls, blaming the pride of the Senators before the people, bitterly inueyed against the power of the Consuls; allcaging, That for one lord now there were two, with an immoderat and infinit power, who themselves loosed and discharged from all feare of lawes, turned all the penalties thereof vpon the poore people. Which their insolencie that it might not still endure, he said, He would publish a law for the creating of Five men, for to appoint lawes concerning the power of the Consuls, who from thenceforth should not vse further power, than that which the people should giue them ouer themselves, and not to haue their lust and insolencie any more for law. Six yerres was this law with great contention and strife betwixt the nobilitie and people debated, and at length in the behalfe of the people established. But here it shall not bee amisse out of *Linie* to set downe the very speeches and complaints of the nobilitie, accounting it better to liue vnder the soueraigne power of a king without law, than to liue in subiection vnto the law, *Regem hominem esse à quo impetres ubi ius, ubi iniuria opus sit, esse gratia locum, esse beneficio, & irasci, & ignoscere posse, inter amicum & inimicum discrimen nosce, leges rem surdam & inexorabilem esse, salubriorem melioremque inopi quam potenti, nihil laxamenti nec venia habere si modum exceßeris: periculosum esse in tot humanis erroribus sola innocentia viuere*: The king (they said) to be a man of whom thou maiest obtaine something where need is, in right or wrong: fauour to bee able to doe something with him, as desert also, who knew both how to bee angry, and to grant pardon: as also to put a difference betwixt a friend and a foe: as for the law it to bee but a deafe and inexorable thing, whholsomer and better for the begger than the gentleman; to haue no release nor mercie, if thou shalt once transgresse the same: it to be a very daungerous thing in so many mens frailties, to liue only vpon a mans innocencie: Thus much *Linie*. After that the lawes of the Twelue Tables were made, where amongst others there was one very popular, and quite contrarie vnto the commaund and power of the nobilitie, and was this, *Priuilegia nisi committijs centuriatis ne irroganto: qui secus faxit, Capital esto*, Let no priuileges be graunted but in the great assemblies of the estates: who so shall otherwise do, let him die the death. By which strict lawes the iudges and magistrats for a time so gouerned the people, as that there was no place left for pardon or arbitrarie iudgement, to be giuen according vnto equitie and conscience without law. As it also happened, after that king *Frauncis* the first had subdued Sauoy, the new Gouernours and Magistrats oftentimes gaue iudgement contrarie vnto the custome of the countrey, and written law, hauing more regard vnto the equitie of causes, than vnto the law. For which cause the estates of the countrey by their ambassadours requested of the king, That from thenceforth it should not bee lawfull for the Gouernours or Iudges, to iudge according vnto arbitrarie equitie: which was no other thing, than to bind them vnto the strict lawes, without turning either this way or that way, than which nothing can be more contrary vnto the minds and proceedings of fauourable or corrupt iudges. And therefore *Charondas* the Carthaginensian lawginer

Nothing more
contrary vnto
the minds & pro-
ceedings of fa-
uourable or cor-
rupt iudges, than
to haue their
iudgements
bound vnto the
strictnesse of the
law.

- A** giuer (a man very popular) forbid the magistrats in any thing, to depart from the words of the law, how vniust soeuer they seemed for to be. *Francis Conan* Maister of the Requests, being commaunded to heare the aforefaid ambassadour of the Sauoyans, writeth himselfe to haue greatly marvelled, that they should request so vnreasonable a thing: as *viz.* That it should not be lawfull for their magistrats to iudge according to the equitie of the cause, but the strictnesse of the law: and reprehendeth also *D. Faber*, for saying, That in this realm there are none but the soueraigne courts, which can iudge according to the equitie of the cause: saying moreouer, That he himselfe doubted not so to do, when as yet he was the least iudge in Fraunce. Howbeit that the ambassadors thought their iudges by the strict obseruing of the lawes, to bee better kept within the compasse of their duties; if the colour of equitie being taken away, they should still iudge according to the very law. *Accursius* not so elegantly as aptly vnto that he meant it, willed the vnlearned iudges, strictly to stand vpon the very words of the law: like vnskillfull riders, who doubting to be able to sit the horse they are mounted vpon, for feare of falling hold fast by the saddle.

The good counsell of *Accursius* vnto vnlearned iudges.

- But for the better vnderstanding and explaining of this matter, it is to be considered, that the word *Equitie* is diuersly taken. For *Equitie* referred vnto a soueraigne prince, is as much as for him to declare or expound, or correct the law: but referred vnto a magistrat or iudge, is nothing else, but for him to assuage and mitigat the rigor of the law: or as occasion shall require aggrauat the too much lenitie thereof: or else to supply the defect thereof when as it hath not sufficiently provided for the present case offered, that so the purport and meaning of the law saued, the health and welfare both of the lawes and Commonweale may be respected and provided for. In which sence not the soueraigne courts onely, but euen the least iudges of all haue power to iudge & pronounce sentence according vnto the equitie of the cause; whether it be by vertue of their office, or that the proceeding before them is by way of request; or that the prince hath sent them some commission, or other letters of iustice for such their proceeding, which they may either accept or reiect: following therein the lawes of our kings, and the clause of the letters carrying these words, *So farre forth as shall seeme right and iust*: or that the prince by his expresse rescript or edict committeth any thing vnto their conscience by these words, *Wherewith wee charge their conscience*: as oft times wee see those things which for the infinit varietie of causes, cannot by lawes be provided for, to bee by the prince committed vnto the religion and conscience of the magistrats, without any exception of such iudges or magistrats: in which case the least iudges haue as much power as the greatest: and yet neuertheless they cannot (as may the soueraigne courts) frustrat appeales, neither quite and cleane absolue and discharge the accused, but onely vntill they be commaunded againe to make their appearance in iudgement, after the manner and forme of the Lacedemonians (as saith *Plutarch*) when they are any way attainted of crime: neither can they also releue, or hold for well releued, a man, appealing from a iudge royall: nor other such like thing. Neither is it any noueltie, many things to be in iudgement lawfull for the greater magistrats or iudges, which are not lawfull for the lesser: when as in the *Pandecks* of the Hebrewes we read it to haue bene lawfull onely for the court of the wise and graue Senators (which they properly call *Hacanim*, and corruptly *Sanadrim*) to iudge of causes according vnto equitie: but not for the other lesser iudges also.

How euen the meanest iudges may haue power to iudge according to the equitie of the cause without law.

Many things in iudgements lawfull for the greater magistrats or iudges, which are not lawfull for the lesser.

But now whereas by the orders and customes of all the cities of Italie, it is provided, *That the Iudges may not swarue from the very words of the law*, excludeth not thereby either the equitie, or yet the reasonable exposition of the law: as *Alexander* the most famous lawyer of his time, according to the opinion of *Bartholus*, answered: who in

The iudge bound vnto the verie words of the law, is not yet thereby embarred to vse the equitie of the law or yet the reasonable exposition thereof.

that respect put no difference betwixt the great magistrat and the little. For that to say truly, the law without equitie, is as a bodie without a soule, for that it concerning but things in generall, leaueth the particular circumstances, which are infinit, to be by equalitie sought out according to the exigence of the places, times, and persons: whereunto it behoueth the magistrat or iudge so to apply the laws, whether it be in tearmes of iustice, or in matter of estate, as that thereof ensue neither any inconuenience nor absurditie whatsoeuer. Howbeit yet that the magistrat must not so farre bend the law, as to breake the same, although that it seeme to be right hard: whereas it is of it selfe cleere enough. For so saith *Vlpian*, *Dura lex est: sic tamen scripta*, An hard law it is (saith he) but yet so it is written. A hard law he called it, but yet not an vniust law: for why, it is not lawfull rashly to blame the law, of iniustice. But yet it is another thing, if the law cannot without iniurie be applied vnto the particular matter that is in question: for that in this case (as the lawyer sayth) the law is by the decree of the magistrat to be qualified and moderated. But when he saith the Magistrat, he sufficiently sheweth that it belongeth not vnto the other particular iudges so to do, but onely vnto the Pretor, as graunted vnto him by the Pretorian law, at the institution of his office: whereby power was giuen him to supply, expound, and correct the lawes.

But forasmuch as that greatly concerned the rights of soueraigntie, princes afterwards (the Popular estate being taken away) reserued vnto themselues the expounding and correcting of the laws, especially in cases doubtful, arising betwixt the Law and Equitie; about the true vnderstanding and exposition of the law. And therefore the iudges and gouernours of prouinces, in auncient time doubting of the law, still demaunded the emperours aduise and opinion, when as the case presented, exceeded the tearmes of equitie arising of the law: or that which seemed vnto them iust, was contrarie vnto the positive law: in which case if the prince were so farre off, as that his exposition was not in time conuenient to be had; and that to delay the cause, seemed vnto the estate daungerous; the magistrats were then to follow the very words of the law. For that it belongeth not vnto the magistrat to iudge of the law (as saith a certaine auncient Doctor) but onely to iudge according vnto the law: and for that in doing otherwise, he shall incurre the note of common infamie. And to this purpose I remember that *Bartholemew*, one of the Presidents of the enquiries in the parliament of Thoulouze, in that the counsellors of his chamber, his fellow iudges, would haue giuen iudgement contrarie vnto the law: he hauing caused all the rest of the iudges of the other courts to bee assembled, by an edict then made at the request of the kings subiects, compelled the iudges his fellowes, in their iudgements to follow the law: Which law when it should seeme vnto the court vniust, they should then for the amending thereof, haue recourse vnto the king, as in such case had bene accustomed: it being not lawfull for the iudges sworne vnto the lawes, of their owne authoritie to depart therefrom, seemed they vnto them neuer so iniust or iniurious. Whereby it appeareth the magistrat to stand as it were in the middle betwixt the law and the equitie thereof: but yet to bee himselfe in the power of the law, so as is equitie in the power of the magistrat: yet so as nothing be by him deceitfully done, or in preiudice of the law. For why, it becometh the iudge alwayes to performe the dutie of a good and innocent vpright man. For where I say that cases forgotten by the lawmaker, and which for the infinit varietie of them, cannot be in the lawes comprised, are in the discretion of the magistrat, it is yet still to bee referred vnto equitie, and that the iudge ought still to be (as we said) an vpright and iust man, not in any thing vsing fraud, deceit, or extortion. Wherein *Alexander* the most famous lawyer seemeth vnto me to haue bene deceiued, in saying, That the iudge which hath the arbitrarie power to iudge according to his owne mind, may if hee so

please

That the magistrat ought not to breake the law although it seem vnto him hard.

To whome it belongeth to correct the law.

The magistrat to be in the power of the law, so as is equitie in the power of the magistrat.

- A** please iudge vniustly : an opinion contrarie vnto the law both of God and nature , and of all other lawyers also reiected : who are all of aduise ; That a iudge hauing arbitrary power to iudge according to his owne good liking, is not to be fined, howbeit that he haue vniustly iudged : provided that he haue therein done nothing by fraud or deceit. And by the law of *Luitprand* king of the Lombards, it is set downe, That the magistrat shall pay fortie shillings for a fine, if he iudge contrarie vnto the law, the one halfe vnto the king, & the other halfe vnto the partie: but if he shal vniustly iudge in that belongeth vnto his place and office without law, he is not therefore to be fined: provided yet that he haue therein done nothing fraudulently or deceitfully : as is yet also obserued and kept in all the courts and benches of this realme . Howbeit that the auntient Romans
- B** thus held not themselues content, but caused their iudges to sweare, Not to iudge contrarie vnto their owne conscience : and still before that they pronounced sentence, the Cryer with a lowd voyce cried out vnto them, *Ne se paterentur sui dissimiles esse*, That they would not suffer themselues to be vnlike themselues ; as saith *Cassiodore* . And in like case the iudges of Greece were sworne to iudge according vnto the lawes : and in case there were neither law nor decree, concerning the matter in question before them, that then they should iudge according vnto equitie, vsing these words, *Δικαιοτάτην γνώμην* . Whereunto that saying of *Seneca* alludeth, *Melior videtur conditio bonae causae ad iudicem quam si ad arbitrum quis mittatur : quia illum formula includit, & certos terminos ponit : huius libera, & nullis astricta vinculis religio, & detrahere aliquid potest & adijcere, & sententiam suam non prout lex aut iustitia suadet : sed prout humanitas aut misericordia impulit regere*, The estate of a good cause (saith he) seemeth better, if it be referred vnto a iudge, rather than to an arbitrator : for that the prescript forme of law encloseth him in , and prescribeth vnto him certaine limits and bounds ; whereas the others free conscience, and bound to no bonds, may both detract and add something, and moderat his sentence, not as law and iustice shall require, but euen as courtesie and pitie shall lead him. Which so great a power the wise lawmakers would neuer haue left vnto the iudges, had it bene possible to haue comprehended all things in lawes : as some haue bene bold to say, That there is no case which is not contained in the Roman law: a thing as impossible, as to number the sand of the sea , or to comprehend that which
- D** is in greatnesse infinit, in that which is it selfe contained within a most little compasse, or as it were within most strait bounds shut vp . And therefore the court of parliament at Paris, fearing least men should draw into the consequence of lawes, the decrees that it should make; caused it to be registred, That if there were any notable doubt , or that the matter so deserued, their decree or sentence should nor bee drawne into consequence, or be in any wise preiudiciall , but that it might bee lawfull in like case to iudge otherwise : & that for the infinit varietie of things doubtfull: wherby sometimes it cometh to passe euen contrarie, or most vnlike iudgements to bee giuen euen of the selfe same or verie like cases , and yet both most iust : as sometimes it chaunceth two trauellers comming from diuers countries, to arriue at the same place , by wayes altogether contrarie . Neither ought the iudges or lawmakers to ioine their reasons vnto their iudgements or lawes, a thing both daungerous and foolish, as giuing thereby occasion vnto the subiects, to forge therof new suits and delaies, or exceptions of error, or otherwise to deceiue the lawes. And that is it for which the auntient lawes and decrees were most briefly set downe, and as it were but in three words, which so cut off all the deceits that could against the same lawes be imagined or deuised. Wherefore it is a most pernicious thing, to gather together the decrees or iudgements of any court, to publish the same, without hauing red them in the records themselues, or knowing the reasons that induced the court to make the decree, which the iudges oftentimes cause to bee recorded

Why so many things are by the wise lawmakers left vnto the conscience and discretion of the iudge.

How it cometh to passe, that euen contrarie or most vnlike iudgements may be giuen of the same or verie like cases, and yet both iust.

That the reasons of lawes and iudgements ought not to bee vnto them ioined

ded apart from the sentence or iudgement, least any should be thereby deceived. Howbeit that it is a thing of it selfe also verie daungerous, to iudge by example and not by lawes, such iudgements being still to be chaunged euen by the least and lightest varietie and chaunge of the circumstances, of the persons, or of the places, or of the times: which infinit varieties can in no lawes, no tables, no pandects, no bookes, be they neuer so many or so great, be all of them contained or comprehended. And albeit that *Solon* was wrongfully blamed for making so few lawes, yet *Lycurgus* neuerthelesse made fewer, yea so few as that he forbade them to be at all written, so to haue them the better remembred; leauing most part of causes vnto the discretion of the magistrats. As did also Sir *Thomas Moore* Chauncelour of England, leauing in his *Vtopia* all penalties, excepting the punishment for adulterie, vnto the discretion of the magistrats: than which nothing can (as many thinke) be better or more profitably deuised, so that the magistrats and iudges be still chosen not for their wealth and substance but for their vertue and knowledge. For it is most apparant euen to euerie manseye, that the more lawes there bee, the more suites there are about the interpretation thereof.

Wherefore *Plato* in his bookes of Lawes, forbiddeth lawes to bee written concerning the execution of the law, or concerning iurisdiction, traffique, occupations, injuries, customes, tributes, or shipping. Which although we cannot altogether be without, yet might we of such laws cut off a great part. Which is also in this realme of Fraunce to be seene, which hath in it more laws and customes than all the neighbor nations; and so also more suites than all the rest of Europe beside: which began then especially to encrease, when as first king *Charles* the seuenth (as I suppose) and other kings after him, to the imitation of *Iustinian*, commanded heapes of lawes to be written, with a whole traine of reasons for the making of the same: contrarie vnto the auncient manner of the lawes and wise lawmakers: as if his purpose had bene rather to persuaide than to command lawes. And this is it for which a certaine craftie corrupt iudge (whom I remember to haue bene banished for his infamous and bad life) seeing a new edict or law (whereafter he still gaped) brought to be confirmed, commonly said, Behold ten thousand crownes in fees, or as some others say, Behold more suites and heapes of gold. For why, the Frenchmen are so sharpe witted in raising of suites, as that there is no point of the law, no sillable, no letter, out of which they cannot wrest either true or at least wise probable arguments and reasons, for the furthering of suites, and troubling euen of the best iudges of the world. Howbeit the iust and vpright iudge, which shall not bee constrained to sell by retaile what others haue bought in grosse, may with a right few and good lawes gouerne a whole Commonweale: as was in Lacedemonia, and other flourishing Commonweales to be seene, who but with a few lawes right well maintained themselues; others in the meane time with their Codes and Pandects beeing in few yeares destroyed, troubled with seditions, or with immortall suites and delaies. For we oftentimes see suites of an hundred yeares old, as that of the Countie de Rais, which hath bene so well maintained, as that the originall parties and the beginners thereof are dead, and the suite yet aliue: Not vnlike that old woman *Ptolomais*, of whome *Suidas* speaketh, who so long, and with such obstinacie of mind and delays maintained her suite, that she died before that it could be ended.

Now certaine it is, that of the multitude of laws, with their reasons annexed vnto them, and in this realme published since the time of *Charles* the seuenth, is come the heape of suites; not so many being to be found in a thousand yeres before, as haue bene within this hundred or sixscore yeares, and yet all forsooth full of reasons: howbeit that there is not one reason set downe in all the lawes of *Solon*, *Draco*, *Lycurgus*, *Numa*, nor in the Twelue Tables, neither yet commonly in the law of God it selfe. And howbeit

Few laws made by the auncient lawmakers.

More lawes, more suites, and more fees.

The Frenchmen much giuen to suites in law.

The cause of the multitude of suites in Fraunce

No reasons annexed vnto the auncient lawes.

- A be it that some may say, That the infinit multitude of people which aboundeth in this realme, may helpe to encrease the multitude of suites: so it is; that there were a great many moe in the time of *Cesar*, and yet moe than there was then about five hundred yeares before, as he himselfe writeth in the sixt booke of his *Commentaries*. And *Iosephus* in the Oration of *Agrippa*, sayth, That there were about three hundred nations in Gaule: And yet neuerthelesse *Cicero* writing vnto *Trebatius* the lawyer (then one of *Cesars* lieutenants) meereley saith, him to haue gained but a few in France to his occupation. Wherefore they which haue brought in such a multitude of lawes, as thinking thereby to cut vp all deceit by the roots, and so to restraine suites: in so doing imitat *Hercules*, who hauing cut of one of *Hydraies* heads, see seuen others forthwith to arise thereof. For euen so one doubt or suit being by law cut off, wee see seuen others of new sprung vp, of that heape of words and reasons without reason heaped together in perswading of the law: it being indeed a thing impossible in all the bookes of the world to comprhend all the cases which may happen, and ten thousand suites arising vpon euery reason of the law giuen. So that *Seneca* thereof said well, *Nihil mihi videtur frigidius quam lex cum prologo: iubeat lex, non suadeat*, Nothing (saith he) seemeth vnto me more cold, than a law with a prologue: let the law commaund, and not persuade: except the reason of the law be from it inseparable. And howbeit that the Decemviri, or Ten Commissioners, appointed by the Romans to reforme the lawes, and to establish new, had twelue tables comprehended whatsoeuer could by mans wit be foreseene: saying and thinking also them to haue therein comprised all occurrents that might happen: yet shortly after they found themselves faire from their account, and so many things to be wanting in those their laws, as that they were enforced to giue power to the Prouost of the citie, to amend the lawes, to heape lawes vpon lawes, to abrogat the greater part of the lawes of the twelue tables: and in brieft to leaue vnto the magistrats discretion the greater part of the iudgements concerning mens particular causes or interest. And howbeit also, that in respect of publike causes, they did what they might to haue shut vp the iudges within the barres and bonds of the lawes, yet so it was, that in fine they seeing the inconueniences which continually fell out in all matters, in seeking to doe equall iustice to all men, according to the Arithmeticall proportion, were constrained (after that the Popular estate was chaunged into a Monarchy) to make a great Prouost in the citie of Rome, to whom they gaue power accordingly to iudge of all the crimes committed in Rome, and within fortie leagues round about the citie: which power was also giuen vnto the Proconsuls, and other gouernours of provinces euery one of them within the compasse of his owne iurisdiction. Now he which extraordinarily iudgeth of offences, is not in his iudgements bound or subiect vnto the lawes, but may giue such iudgement as shall seeme vnto himselfe good; provided yet that he therein exceed not measure, as saith the law: which measure consisteth in the Harmonicall proportion which we haue before spoken of.
- E Yet such extraordinarie power by the prince giuen vnto the magistrats, whether it be for iudgement, or for manning of wars, or for the gouerning of a citie, or for any thing else doing, hath many degrees: for either his power is giuen him next vnto the prince, greater than which none can be: or else power is giuen him by vertue of his office, so that he may iudge as he seeth cause, or else may iudge in such sort as might the prince himselfe; which power little differeth from the highest, and such as can in no wise by the highest magistrat vnto another magistrat or Commissioner be giuen. But if in the princes rescript or commission it be contained, That the appointed magistrat shall iudge of the cause in question according as reason, equitie, religion, or wisdom, shall lead him, or some other such meane of speech, in all these cases it is certaine, that his power

By lawes to provide for all inconueniences, a thing impossible.

Many degrees of extraordinary power, by the prince granted vnto the magistrat.

power is stil limited and referred vnto the iudgement of an honest man, and the tearms of equitie : whereunto the prince himselfe ought to referre all his owne iudgements also. W herein many are deceiued, which thinke it lawfull for the prince to iudge according to his conscience; but not for the subiect, except it be in matters and causes criminall : in which case they are of opinion , that the magistrat may as well as the prince iudge according to his conscience : which if it be right in the one, why is it not right in the other ? and if it be wrong in the one, why should it not be so in the other ? when as indeed it is lawfull for no man in iudgement to swarue from equitie and conscience, and that iniurie like an Ape is alwayes like vnto it selfe, filthy still, whether it bee clothed in purple, or in a pied coat. And in iudging it is one thing to bee freed from the law , and another to be freed from conscience.

Not lawfull for any man in iudgement to swarue from equitie and conscience.

Whether a prince or magistrat may be iudge of a fact the truth thereof being vnto none other knowne but vnto them selues alone.

But if the varietie of a fact in question be not knowne but vnto the prince himselfe, or magistrat alone; neither the one nor the other can therein be iudge, but witnesses only : as *Arzo* (the great lawyer) answered vnto the Gouvernour of Bolonia *Lagrasse*, who without any other witnesse had seene a murder done, telling him, That hee could not in that case be iudge. Which selfe same aunswere was also giuen vnto king *Henry* the second of Fraunce, by the judges who were extraordinarily appointed to iudge of diuers causes at Melun, where the king hauing himself taken an Italian (one with whom he was familiarly acquainted) in a fact deseruing death, committed him to prison; who soone wearie of his imprisonment, preferred a request vnto the judges, That forasmuch as he was not conuict of any crime, neither yet so much as by any man accused, hee might therefore as reason would, be discharged and set at libertie. Whereupon *Cotelus* chiefe judge of the court, with three other of the judges went vnto the king , to vnderstand of him what occasion he had for the imprisonment of the man, or what he had to lay vnto his charge ? Whom the king commaunded to, bee forthwith condemned, for that he himselfe had taken him in such a fact as well deserued death, which yet hee would not discouer. VVherunto the chiefe judge answered, *Nos iurati sumus, nisi sceleris conuictum, & ex animi nostri sententia damnaturos esse neminem*, We are sworne (said he) to condemne no man except he be of some capitall crime conuict, and according to our conscience. With which aunswere the king (otherwise a most curteous and gentle prince) much moued, for that the judges seemed to doubt of his fidelitie and credit, deeply swore, That hee himselfe had taken the villaine in a fact deseruing death. Wherefore *Anne Montmorancie* Great Constable of Fraunce, perceiuing the judges to be bound by their oath, to iudge but according vnto the laws, and that in performing the kings command they should rather seeme manquellers and murderers, than vpriight judges : taking the king a little aside, perswaded him to deferre the execution of the man vntill night, least the people might hap to be troubled with the nouelty of the matter. And so the guiltie partie the night following was by the commaundement of the king thrust into a sacke, and in the riuer drowned. Yea the same king also in a ciuill cause, serued but as a witnesse in the great suit about the inheritance of *George* of Amboise, where he was before the judges sworne as a priuat man, and his testimonie accounted but for one. Wherefore *Paulus Tertius* was not without cause blamed, for that he being Pope, had caused a certaine gentleman to be put to death, who had confessed vnto him (being then a Cardinall) a secret murder by him done : which thing yet the same gentleman afterward constantly denied him to haue either said or done. Howbeit it were much better and more indifferent, the prince or the magistrat to iudge according vnto their consciences in ciuill, than in criminall causes : for that in the one, question is but of mens good; whereas in the other still mens fame, yea oftentimes their liues, and whole estates is in daunger : wherein the proofes ought to bee more cleerer than

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A than the day it selfe.

But yet the difference is right great, and much it concerneth, whether the magistrats in their iudgements be bound vnto the lawes or not, or else be altogether from the laws loose & free: for that in the one, question is onely of fact; but in the other, of law, equitie, and reason, and especially when question is of matter of great importance or consequence, and wherein the law is to be expounded: which in auncient time was giuen in Rome vnto the Great Prouost, as we haue before said; but by the law of God was referred vnto the High Priest; or vnto him that was by God chosen to bee soueraigne judge of the people: or in their absence vnto the *Leuites*. Which power in the latter times of the Iewes Commonweale (and about two hundred yeares before Christ, vnder the latter princes of the house of the *Asmoneans*) was by custome, but not by law,

The exposition of the law, to whom it was by the law of God referred.

B giuen vnto the Senat of the wise Sages. As amongst the Celts our auncestours, the Priests and Druides, for that they were the makers of the sacrifices, and keepers of the holy rites, were made also the keepers and guarders of Iustice, as of all other things the most sacred. The president or chiefe of which Druides (as *Ammianus* reporteth) still carried about his necke a pretious stone, hanging downe vnto his breast, with the picture of *Truth* engrauen in it. Which most auncient custome of the Hebrewes, and of the Egyptians, euen yet continueth in all Asia, and in the greater part of Affrike also, viz. That the Priests should haue Iustice in their hand, and the Great Bishop the exposition of the Lawes, and the deciding of the most high and difficult causes. So the

The exposition of the lawes, and the deciding of most high and difficult causes both in Asia and Affrike, referred vnto the Mahometan Priest.

C Great Bishops, whome the Turkes call their Muphti, hath himselfe alone the expounding or declating of the doubts arising of the obscure lawes, especially when question is betwixt the written Law and Equitie it selfe. Which exposition of such doubtfull lawes, the Roman emperours referred vnto themselues, as proper vnto the soueraintie of their imperiall maiestie. So the Persian kings had also their Muphti, as the sanctuarie both of their publike and priuat lawes, who was still resiant in the great citie of Tautis. So had the Tartars theirs in the famous citie of Samarcand: and the kings of Affrike euerie one of them their Great Bishops also: who at Athens were called *Nemophylaces*, and in other places *Thesmothete*. Whereby it is to be vnderstood, that such masters and interpretors of equitie when law faileth, ought still to be most wise and vp-right men, as also in most high authoritie and power placed.

D And now verily if the lawes of Arithmetical Iustice might take place but euen in priuat iudgements onely, as when question is of the exchange of things, then no doubt should in such priuat iudgements be seene, but all the question should consist in fact onely: to that no place should be left for the opinion of the judges, neither yet for equitie, things being holden and shut vp within most strict and strait lawes: which wee said could not be done, and if it could, yet will we forthwith shew the same to bee most vnfit and absurd. But yet first let vs shew, that publike iudgements neither can nor ought to be handled or made according to the Geometrical lawes or proportion of Iustice.

Arithmetical Iustice vnfit to be vsed euen in priuat iudgements.

E Which neuer to haue bene before done, is manifest by all the lawes which carry with them amercements or fines, which are to be found in the laws of *Draco*, *Solon*, or of the Twelve Tables: as also by the lawes and customes of the auncient Saliens, Ripuaries, Saxons, English, and French men, where almost all the penalties are pecuniarie, and the same fines most often indifferently set downe as well for the rich as for the poore, according vnto equall Arithmetical Iustice. All which lawes were to be repealed if pecuniarie amercements and fines were according to the opinion of *Plato*, after the Geometrical proportion of Iustice, to be of the offenders exacted. These words also, *Ne magistratibus multam pœnamue lenire liceas*, That it should not bee lawfull for the magistrat to mitigate the fine or penaltie: a clause most commonly annexed vnto all pe-

Geometrical proportion of iustice in publike or penall iudgements, not to be admitted.

nall edicts and laws; were to no purpose, but to be quite omitted, & the matter left vnto the discretion of the magistrat, at his pleasure to aggrauat or ease the fine or penaltie. **F**
 Yea that law common vnto al nations, whereby it is prouided, *That the partie condemned not hauing wherewith to pay the fine due for the fault by him committed, should satisfie the same with corporall punishment to be inflicted vpon him*, were also to bee abrogated and taken away.

An obiection against Arithmetical proportion in exacting of fines.

But here perhaps some man will obiekt & say, It to bee great iniustice to condemne a poore man in a fine of 65 crownes, for a foolish rash appeale by him made vnto any the higher courts (as the maner with vs is) and yet to exact no greater fine for the same offence of the richest of all. For why, Geometrical proportion of Iustice, which exacteth sixtie crownes for a fine, of him which is in all but worth an hundred crownes, requireth threescore thousand crownes of him which is worth an hundred thousand crownes. For that the like Geometrical proportion is of threescore to an hundred, that is of threescore thousand to an hundred thousand. Thus we see the rich man by Geometrical proportion of Iustice, to be much more grieuously fined than the poore: and so contrariwise the Arithmetical proportion of Iustice, in the imposing of penalties and fines, to be the meanes for the rich to vndoe the poore, and all vnder the colour of iustice. Which inconueniences our auncestors foreseeing, by laws gaue leaue vnto the judges, beside the ordinarie fines, to impose extraordinarie fines also vpon offenders, if the weightinesse of the cause so require: which maner of proceeding the antient Greeks also vsed, calling this extraordinarie manner of amercement or fine, *ζημίαν ἐπὶ βαλίας*, **G**
 as *Demosthenes* writeth, and which is yet vsed by the Roman lawes: which draweth very neere vnto the true Harmonical Iustice, if by the same lawes it were permitted vnto the judges, or at leastwise vnto the soveraigne courts to deminish also the fine, hauing regard vnto the equalitie and condition of the poore and simple, as they alwayes do in the parliament at Roan. And whereas the receiuers of the fines requested of the the king, That it might bee lawfull for the judges to encrease, but not to diminish the fines imposed vpon such as should rashly appeale. *Lisores* the President, and *D. Amours* the kings Attourney, were deputed & sent from the parliament at Roan vnto the king, to make him acquainted with diuers things concerning the demaine, & generall reformation of Normandie (wherein I then was a partie for the king) and amongst other things, to request him, That it might please his maiestie, not to constrain them to condemne all such as should rashly appeale vnto the superiour courts, in the selfe same fine of threescore pound Paris: which vnto me seemed a thing vnreasonable, hauing also in antient time before bin done, by an edict of the emperor *Claudius*. In which doing the true Harmonical Iustice should be obserued and kept, which in part equall, in part sem-
 blable, are alike; there should be an equalitie betwixt men of the middle sort of wealth, according to the Arithmetical proportion of Iustice: and a Geometrical proportion also betwixt the great lords and the poorer sort: Whereof the former should in this case be left vnto the disposing of the law, and the other vnto the conscience and discretion of the judges. For there is nothing more vniust, than the perpetuall equalitie of fines and punishments. For prooffe whereof let the law but lately made by king *Charles* the ninth concerning apparell, serue for an example: whereby a fine of 1000 crownes was imposed vpon all such as should either much or little transgresse the same, without respect of any the offenders abilitie, age, or condition: with prohibition for the judges in any sort to mitigat or lessen the same. Which law concerning all men in generall, and yet made by Arithmetical proportion of Iustice, was shortly after by the iniquie of it selfe rent in sunder, and by the magistrats themselues, as well as by other priuat men neglected. Whereas the law of *Philip* the Faire concerning apparell was much
 more **K**

Harmonical proportion of iustice best.

Nothing more vniust, than the perpetuall equalitie of fines and punishments.

- A** more iust and indifferent, as neere approaching vnto Harmonicall Iustice: and appointing diuers punishments, according to the diuersitie of the offenders; as vnto a Duke, an Earle, a Baron, and a Bishop, a fine of an hundred pound, the Banaret fiftie pound, the Knight and pettie Landlard fortie, Deanes, Archdeacons, Abbats, & other clarkes, hauing dignities or ecclesiasticall preferments, 25 pound: vnto the other lay men offending, of what estate soeuer they were, if they were worth a thousand pound, was appointed a fine of twentie fine dound: and if they were worth lesse, they were to pay an hundred shillings: the other clarkes without dignitie or promotion, were they secular or religious that offended against the law, paid the fine of an hundred shillings, as did the others, Wherein we see vnequall punishments appointed for persons vnequall, following therein Geometricall Iustice: and yet for all that we see also equall punishments for persons vnequall, following therein Arithmeticall Iustice: and both the one and the other so mixt together, as that thereof ariseth also that Harmonicall Iustice which we so much seeke after. The same proportion is obserued in the law, allowing of euery mans apparell and attire also: as where it is said, That no woman citizen should weare a chaine: also that no bourgesse or common person of either sexe, should weare any gold or pretious stones, neither girdles of gold, nor any crowne of gold or siluer, or any rich fures; which is not forbidden the nobilitie, and yet in them also there is some difference: as in that it is said, That the Duke, the Countie, the Baron, which hath six thousand pound land, may make themselves foure new sutes of apparell in a yeare, but no more; and their wiues as many: and gownemen, and clarkes, which haue no dignities nor preferments, should not make them gownes of cloath aboue sixtene shillings the elne Paris; & for their followers not aboue twelue shillings. Many other such like articles there were, and yet was there no mention neither more nor lesse either of filke or veluet, or other such like thing. So that hee which would in penall lawes particularly keepe Geometricall Iustice, in setting downe the penalties according to the equalitie of the offences, and abilitie of the offenders, shall neuer make penall law: For that the varietie of persons, of facts, of time, and place, is infinit and incomprehensible; and such as should alwaies present vnto the judges, cases stil much vnlike one of them vnto another. So also the perpetuall equalitie of penalties according to Arithmeticall proportion, is as vniust and vnreasonable, as if a Physitian should prescribe the same medicine to all diseases: as is to bee seene by the lawes of the Romans concerning the charges to be bestowed at feasts & banquets: wherby the morsels were equally cut vnto all euen alike, and the penaltie also equall without respect of rich or poore, of noble or base: amongst whome yet it had bene no hard matter to haue kept the Geometricall proportion, as neere as vnto true iustice, euery mans wealth beeing with them enrolled in the Censors bookes: whereas with vs at this present it were a thing most hard, or rather impossible so to do, as hauing no Censors, by whom mens wealth might be reasonably knowne. But the Popular estate of the Roman Commonwealth still sought after the Arithmeticall equalitie of lawes and penalties. Which equalitie the estate being chaunged into a Monarchie, the princes by little and little changed, and so moderated the penalties before vpon the nobilitie imposed; as is by the relict of *Antoninus Pius* vnto the gouernour of one of the prouinces to be seene: who had in hold a noble gentleman conuict before him, for murdering of his wife by him taken in adulterie: wherin he willed him to moderat the penaltie of the law *Cornelia*; and if the murthrer were of base condition, to banish him for euer, but if hee were of any dignitie or reputation, that then it should suffice to banish him for a time.
- E**

Geometrical proportion of iustice not possible to be kept in the making of penall lawes.

Arithmetical equalitie in the appointing of penalties, vnreasonable and vniust.

Now it is a notable difference in termes of iustice, that the qualitie and condition of the person should in iudgment deliuer him from death, who should otherwise haue

The qualitie and condition of the person to be in the making of penall lawes, and inflicting of punishments much respected.

bene condemned : for the murtherer sayth the law, ought to be put to death, it hee be not a man of some dignitie and honour . And the Law *Viscellia* willetth that the stealers of beasts, if they bee slaues, should be cast vnto the wild beasts ; but if they were freemen, they should be beheaded , or condemned into the mynes : but if they were of any nobilitie, it should then suffice to banish them for a time . In like sort also, that the burners of villages or houses should bee giuen vnto the beasts, if they were men of base condition : but if they were of any noble house, then to be beheaded, or els confined . And generally, the slaues were euer more seuerely punished, than were men by state and condition free : for these were neuer beaten with rods, or with small cudgels, whereas the slaues were still beaten with clubs, or els whipt with whips made of small coards . Howbeit that *Plato* sayth, That the free Citisen ought to bee with greater seueritie punished, than the slaue ; for that as (sayth he) the slaue is not so well taught as is hee : which his opinion sanoreth indeed of a Philosopher, rather than of a Iudge or of a Lawyer ; yea the law of God deliuereth from death the master, who in too seuerie correcting of his slaues, shall by chaunce kill him . And therefore it ought not to seeme strange, if the father were by the people of Rome openly stoned, for whipping his son with whippes as a slaue, as *Valerius* writeth . And indeed amongst free borne men, the Citisen is lesse to be punished than the stranger, the noble lesse than the base, the magistrat lesse than the priuat man, the graue and modest lesse than the vicious and dissolute, and the souldier lesse than the countreyman . Wee must not (sayeth *Labeo* the Lawyer) suffer a base fellow to enter an action of fraud against a man of honour and dignitie : neither an obscure and loose prodigall man against a modest man of good gouernment ; yea the auntient Romans neuer condemned any Decurion, or Captain of ten men (for what fault soeuer hee had committed) into the mynes, or to the gallowes . The night theefe sayth the law, if hee shall with weapon stand vpon his defence, is to be condemned into the mynes ; but men of reputation and qualitie offending, to bee onely for a time banished, and souldiers with disgrace cashiered . Neither must wee thinke this Geometrical manner of punishing to haue bene proper vnto the Romans, or to any other people in particular onely, but to haue bene common almost vnto all other people also, as namely vnto the French, the Saliens, the English, and the Ripuaries : and yet must wee doe as doe the barbarous Indians, which for the same offences set downe most grieuous punishments as well for the noble as the base, without any proportion at all ; and yet in the manner of the executing thereof make great difference : for of the baser sort they cut off their noses and eares, and for the same offence cut off the noble mens haire, or the sleeues of their garments : a common custome amongst the Persians , where they whipped the garments of the condemned, and in stead of the hayre of their heads, pluckt off the wooll of their caps .

Aristotle his opinion concerning the execution of Geometrical and Arithmetical Iustice, related.

Neither are wee to stay vpon the opinion of *Aristotle*, who would Geometrical iustice to take place in bestowing of rewards, and diuiding of spoyle : but Arithmetical iustice equally to bee executed in the inflicting of punishments, which is not onely to ouerthrow the principles of Philosophy, which will that things contrarie, as reward and punishment, should be ordered by the same rules, but also the resolution of all the greatest Lawyers and Law-makers that euer were : with whom also the Canonists, the Orators, the Historiographers, and Poets in opinion agree, and haue alwaies more easily punished the noble than the baser sort : (howbeit that the most easie punishment of all may vnto a noble man seeme most great) that so others may bee the more enflamed vnto vertue, and the loue of true nobilitie, when as they shall vnderstand the remembrance of the infinit rewards of the vertue of most famous men, and such

Nobilitie in penalties to be inflicted, sanoured euen for the vertues of their ancestors ; and the iniuries vnto them done, more seuerely punished

A such as haue well deserued of the Commonweale being also dead, yet still to redound vnto their posteritie. But here I measure nobilitie by vertue, & not by mony, the flowre of youth, the princes fauour, or euill meanes whatsoeuer obtained. The auantient nobilitie of *M. Æmilius Scaurus* (as saith *Valerius*) saued his life euen in flourishing time of the Popular estate: which respect of nobilitie was yet much better kept after the change of the estate; for then they began by little and little to behead the nobilitie with a sword, after the manner of the Northerne people, in stead that the Romans before vsed the hatchet in the execution of all sorts of men. And for that the Centurion sent to execute *Papinian* (the most famous lawier, *Traian* the emperours neere kinsman, and before proclaimed the defensor both of the emperours and of the empire) had with an hatchet cut off his head; he was therefore sharply reprovèd by the emperour *Caracalla*, telling him, That he ought to haue executed his command with a sword, as which had lesse paine, and also lesse infamie. Wherein *Gouern* the lawyer was deceiued, who writeth more grieve to haue bene in the execution with the sword, than with the hatchet, *Men die* (saith *Seneca*) more easily with no kind of death, than being beheaded with the sword. And by the same reason and proportion of Iustice, hee that wrongeth a noble man is more grienously to be punished, than hee which wrongeth a common person; & he which doth iniurie vnto a citisen, than he which doth iniurie vnto a stranger. For in the lawes of the *Salians*, if a Saxon or Frizlander had any way wronged a free borne Salian, he was almost foure times more grienously fined, than if a Salian had wronged a Saxon or a Frizlander. So also by the lawes of *Alphonfus* the tenth king of Castile, a wrong done vnto a noble man was fined at five hundred shillings; and a wrong done vnto a common person at three hundred. And by the like law of *Charles* the Great, he that had slaine a subdeacon was fined at three hundred shillings; if a deacon at foure hundred shillings, if a priest at five hundred, if a bishop at nine hundred: which penalties (the authoritie of the bishops being encreased) were doubled. I here speake not of the equitie or iniquitie of these lawes, but vse them onely as examples, to shew that Arithmetical Iustice by the lawes of many nations, neither hath had; neither yet ought to haue place, when question is of fines and punishments; and that men of honour, and of marke, ought more easily to be punished, and their iniuries more seuerely reuenged, than those done to the common sort: wherat they yet oftentimes grudge & murmure, and thinke themselues to be therein greatly wronged. Yea *Andrew Riccio* a Polonian writeth it to be a great iniustice, That the nobilitie offending are not punished with the same punishment that the common people are; the rich as the poore, the citisen as the stranger, without any respect of degree or persons: than which nothing could bee more absurdly written, of him which would take vpon him to reforme the lawes and customes of his owne countrey and Commonweale. The like complaint was against *N. Memmius* Maister of the Requests in court, for that he being by the king appointed iudge in the triall of *Vlmus* the president, had suffered the man convicted of most capitall crimes to escape the punishment thereunto due; and yet had condemned his clearke to be hanged, who had but done his maisters commaundement: Which king *Francis* vnderstanding, merily said, Thee ties by a wicked consent to releue one another. Howbeit that *Memmius* a man most famous not onely in his issue, but also for his wealth, honours, vertue, and deepe knowledge in the law, is releued euen by the equitie of his sentence; whereby he deprivèd the said president of all his honours and goods, and after ward hauing caused him to bee most shamefully set vpon the pillorie naked, and marked in the face with an hoat yron, to bee banished. But for that his clearke and domesticall seruant, and minister of such his villanies, was but a base and obscure fellow, hauing neither goods nor office to loose, neither much

regard of his good name, he could not otherwise worthily be punished than by death, F
 hauing so well deserued the same. Whereas had he bene his slaue, he had bene more to
 haue bene fauoured, for that then he must of necessitie haue obeyed his maister. Nei-
 had the president bene so grievously punished, had he not being a iudge, vnto his most
 base and corrupt dealings ioyned also most shamefull forgerie and extortion, and that in
 the administration of iustice, which he had as then in keeping. For this prerogatiue hath
 alwayes by our auncestours bene reserued vnto the nobles, and such as otherwise are in
 honourable place, That being for any offence or crime condemned to die, they should
 not therefore be hanged, for the infamie of the punishment: whetein all writers agree.
 Howbeit that concerning other punishments they are not all of one opinion, *Seneca* (as
 we said) accounting heading for the easiest: and the Hebrewes in their *Pandeets*, in the G
 Title of Punishments, appointing stoning for the most grievous, the second burning,
 the third beheading, and the fourth strangling. Howbeit that they deeme him most in-
 famous, and by the law of God accursed, which is hanged on the tree.

Hanging the
 most shamefull
 death, heading
 the easiest, sto-
 ning the most
 grievous.

and in this *Bartholus* (the famous lawyer) is deceiued, saying, That the manner and
 custome in France, was to hang the noble or gentlemen condemned: and that that pu-
 nishment was not there accounted villanous or infamous, seeing that in his time (which
 was in the raigne of *Philip* the Long, about the yeate of our Lord 1318) the nobilitie
 of Fraunce was as famous and as honourable, as the nobilitie of any place of the world.
 Yet true it is, that the noble man which is a traytor vnto his prince, deserueth to be han-
 ged; so to be more grievously punished than the base companion, who offendeth not H
 so much as he, as not so straitly bound to preferue the life and estate of his prince. For
 the more a man is obliged and bound in fidelitie vnto his prince, the more grievously
 he is to be punished about the common person: *Viri fortes* (saith *Cicero* speaking of *Ca-*
tilin the rebell) *acerbioribus supplicijs ciuem pernitiosum quam acerbissimum hostem coer-*
cendum putant, Worthy men (saith he) iudge the daungerous citizen to bee with grea-
 ter punishment chastised, than the cruelllest enimie that is. And therefore *Linie* saith, the
 fugitiue traytors during the Carthaginensian warre, to haue bene more seuerely puni-
 shed, than the fugitiue slaues: and the Roman traytors more sharply than the Latines,
 who were then still beheaded, but the Roman traytors hanged. Howbeit that in all
 other offences the Romans were more easily punished than others: For *Scipio Afri-*
canus (saith *Florius*) caused the Roman souldiour not keeping his ranke, to bee beaten
 with a vine, but other souldiours with a trunchion or cudgell of other sadder wood: the
 vine (as saith *Plinie*) being the dishonour of the punishment. I

Noble men for
 treason against
 their foweraigne
 prince, why to be
 more seuerely puni-
 shed than other
 meaner persons.

Yet whereas we said, That the punishment of noble men ought to bee more easie
 than the punishment of the base and obscurer sort, that so others might bee the more
 stirred vp vnto vertue; it is a common opinion, and almost of euerie man receiued: but
 not yet altogether true. For that in right Geometricall proportion, the noble man for
 his offence hauing lost his honour and reputation, is as grievously indeed punished, as is
 the base companion that is whipt, who cannot indeed of the honour and reputation
 which he hath not, loose any thing: as children and women are no lesse hurt with a soft
 fernla, than are the strong with cudgels or whips. And therefore *Scipio* commaunding
 the Roman souldiours to be beaten with the vine, euen for the same cause for which he
 commaunded the Latine souldiours to be beaten with cudgels, followed therein the
 equalitie, or rather the Geometricall proportion of punishment. For which cause *Gal-*
ba the emperour caused the Gibbet to be painted white, and set higher than the rest, to
 lessen the paine of a citizen of Rome, complayning that hee should bee hanged as other
 theeves were: howbeit that he had poisoned his pupill. So if a Physitian or an Apo-
 thecarie shall poyson a man, he is more grievously to be punished than if another man
 had

The noble man
 for his offence
 hauing lost his
 honour and repu-
 ration, to be as
 grievously puni-
 shed, as the com-
 mon person that
 is whipt.

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- A had done it. And so in the same proportion of iustice, the judge which doth iniurie, the priest which committerh sacrilege, the notarie or register which committeth forgerie, the goldsmith which coyneth false money, the guardian which rauisheth his pupill, the prince which breaketh his faith and league; and generally whosoever offenderh in his owne vocation, and in such things as whereof he is himselfe a keeper, ought to bee therefore the more grievously punished than others: for that his offence is therein the more grievous. And therefore *Metius* the Dictator of the Albans, was by the commaundement of *Tullus Hostilius*, with foure horses drawne in peeces, for hauing broken his faith with the Romans. And *Solon* hauing caused his lawes to be published, and sworne by all the Athenians, appointed the Areopagits to be the keepers and interpreters thereof; and if they should breake the same, to pay therefore a statue of gold of the weight of themselves. Now had *Aristotle* himselfe neuer so little a while bene a judge, or looked into the lawes of his countrey, he would neuer have written, That the equal Arithmeticall Iustice were to be obserued and kept in the inflicting of punishments: but that in all things, and especially in matters of punishments, the Geometricall proportion of Iustice were much better and more rollerable; as neerer vnto the Harmonicall Iustice which we seeke after, being partaker of both. Neither by this Harmonicall proportion is more fauour shewed vnto the noble than vnto the base, howbeit that vnto many it seeme contrarie. For prooffe whereof, let it be, that a rich man and a poore being guiltie of the selfe same crime, the rich man is in shew more grievously fined than the poore: howbeit that in truth the one is not more heauily fined than the other, but both of them indifferently according to their wealth and abilitie. There is with ys a most auncient law extant, whereby the poore common persons which make resistance against the magistrat commaunding them to be apprehended, are fined at threescore shillings; but the noble man at a thousand and two hundred. And for that money is more plentie in one place than in another, and in this our age than in ancient time, wise lawmakers haue bene constrained to chaunge their pecuniarie punishments or fines, according to the varietie of times & places. In the flourishing time of the Roman Commonwealth, & namely vnder *Traian* the emperor (who is reported to haue extended the bounds of that great empire farthest) he was by the law accounted a poore man, which was not worth fiftie * crownes, that is to say a crowne of gold. Which decision of the Romans, the Hebrewes in their Pandects following, haue forbidden all them that are so much worth to begge. The customes of Fraunce in many places, call him a poore man, who with two or three witnesses of his owne parish, hath sworne himselfe to be poore.
- D But when the lawes of the Twelue Tables were made, the pouertie of men was so great, as that he was accounted a right rich man, which was worth a pound of gold. And therefore the Decemviri by those lawes set downe a fine of twentie five Asles, or small peeces of brasse, for him which should with his fist giue any man a blow vpon the face: which was an heauie penaltie (as the world then went) for that it was by
- E Arithmeticall proportion indifferently exacted of all men alike. But after that mens wealth encreased, one *Neratius* a rich fellow (as the time then was) and most insolent withall, tooke a pleasure to giue such as he thought good, as he met them in the streets, a good and sound buffet or box: on the eare and so by and by commaunded a slaue, which carried a bagge full of such small coyn after him, to pay vnto him whome hee had so stricken twentie five of those small brassen peeces, the fine set downe in the xij Tables: which was the cause that the law was abrogated, and order taken, that from thenceforth euery man should esteeme the iniurie vnto himselfe done, yet with power still reserued vnto the magistrat, to do therein as should seeme vnto him reasonable.

He which offenderh in his owne vocation, or in such things as wherewith he is put in trust, to be therefore more seuerely punished than other offenderh in the same.

Harmonicall Iustice to be indeed vnto all men indifferent, howbeit that at the first shew it seeme more fauourable vnto some than vnto others.

Fines oftentimes to be changed, according vnto the varietie of times and places.

* A crowne was then as much worth as the Rose noble is now. Who was by the auncient Roman lawes to be accounted a poore man.

The insolency of *Neratius*, the cause why the lawes of iniuries were changed in Rome.

Whereby it was then plainly perceiued and knowne Arithmetically proportion not to be good in the imposing of penalties and fines. So also by the ancient customes of the Normans, he that stricke a common person with his fist, was fined at a shilling; but he that stricke him with his open hand, was to pay the fine of five shillings: but were he a gentleman that had receiued such iniurie, he was not to redresse the same by law, but by force of armes and combat: whereby it oftentimes came to passe, that hee which had before receiued the iniurie, was also in the quarrel slaine, without any punishment therefore, and that by the sufferance of the law. The like we may say of the Athenian law, which condemned him in an hundred crownes fine, which should presume to cause a galliard to be daunced in the Theatre: which *Demades* the Orator well knowing, yet to make his playes which he gaue vnto the people more gracious, amongst the musitians brought in also vpon the stage a dauncing trull there to daunce; yet before she entred, paying the aforesaid fine of an hundred crownes by the law set downe, which was indeed nothing else but a mockerie of the law, and a cause for others also to tread both it and the rest vnder foot. Which inconueniences the Polonians to auoid (for that almost all the penalties of their lawes are fines in money) alwaies ioine vnto their lawes these or like words, *Lex hac quia pœnalis est annua esto*, This law for that it is penall let it be but for a yeare in force.

But beside these chaunges of penalties and fines, some others haue beene constrained to chaunge such pecuniarie penalties or fines into corporall, yea euen into capitall punishments also: and that especially when the countrey groweth rich, so that men begin to contemne the fines, or that the offence groweth too common: in which cases the Hebrew lawyers are of opinion, That the penalties of the lawes are to bee encreased, and punishment with rigour executed. And therefore the law of the Britons appointeth the eues to be hanged, yeelding therefore this reason, *Ne eorum augeatur multitudo*, Least the multitude of them should be encreased. An vniust law indeed, and the reason thereof foolish; and such a law as by the antiquitie of it selfe is almost growne out of vse, for that it hath no distinction either of place, or of the equalitie of the persons offending, or of the age, or of the sexe, or of the time, or of the felonie committed; but punisheth all felons alike. When as in all executions of punishments, the lighter offences are the more lightly to be punished, yea and oftentimes also pardoned: as only in respect of age, the indifferent and equall law would that men should in all iudgements pardon youth, or at leastwise more easily punish it. So ought the iudges also more fauourably to chastise women than men: either for that their passions are more vehement than men, or that for want of reason, discretion, and learning, they are lesse able to gouerne their affections: or for that they be more tender and daintie, and therefore haue the sharper feeling of punishment than men. Which beeing so, a man may deeme the law of the Venetians vniust, which for the first felonie committed, condemneth the woman to be whipt, and marked with an hoar yron; and after that her hand cut off: and for the second offence, to haue her nose and lips cut off: whereas the man by the same law, and for like fact, is to lose but one of his eyes and his hand. By which law women, contrarie vnto equitie, are more seuerely punished than men: & the means whereby to get their liuing being taken from them, they both haue more occasion to steale than before whilst they had their limmes. Wherefore better it were according to Arithmetically Iustice (howbeit that in matters of penalties it be vniust) to punish them both alike: or else according to Geometrical Iustice, which commeth much neerer vnto the true Harmonicall Iustice, which hath regard in particular to all the circumstances concurring. But that law and iudge is verie vniust, which more seuerely punisheth the tender and feeble, young folkes or women, the sickly or old, than the strong

Demades at Athens wilfully transgresseth the law, and paieeth the fine.

Penalties & fines sometimes changed into corporall and capitall punishments, and why.

Why women are more fauourably to be punished than men.

The iniquitie of the Venetian law in the punishing of women.

- A** strong and lustie. And in briebe all lawes carrying with them penalties certaine, and such as it is not lawfull for the magistrat according to the exigence of the cause, to moderate or aggrauat, are vniust. Wherein euen the wisest and best experienced may well be deceiued, if they haue not this Harmonicall Iustice still before their eyes. For where is there in the world so great wisdom, so great iustice, such a number of learned lawyers, as in the court of parliament at Paris? who yet without any restriction or limitation at all, published a law against falsifiers and forgers, made by king *Francis* the first, whereby capitall punishment was appointed for forgerie, whether it were in ciuill or criminall causes, without distinction of forgers, judges, clearkes, notaries, souldiours, or plaine countrey men. Which law for all that by the wise conuenance of that court is since growne out of vse: howbeit that the penaltie thereunto annexed yet remaineth to terrifie forgers withall: whome for all that the court punisheth with arbitrarie punishment, according to discretion, and not according to the rigour of the law, in such sort as that scarcely one of fiftie is condemned to die. For why, the same court shortly after perceiued the intollerable inconueniences and absurdities which that law drew after it, punishing with death him that had falsified but the least scedule of an hundred shillings, as well as him that had falsified the decrees of the court, or the kings seale, or borne false witnesse to condemne the innocent; as also for a meere ciuill cause, where question were but of fise shillings: and all without regard or difference of persons. Neither is the law of Venice any better or vpright, which appointeth no lesse punishment for falsifying and forgerie, than the cutting out of the tongue: without any distinction of the manner of the forgerie, or respect of the degree, sexe, or age of the offender, or other circumstances whatsoever. But the law of Milan sauoureth more of equitie and Harmonicall Iustice: for it willeth, That he which forgeth or falsifieth an act, or beareth false witnesse in a matter which exceedeth not twentie crownes, shall for the first time be condemned in foure times the value, and three dayes shamefully to bee carried about with a paper myter vpon his head: and for the second time to haue his hand cut off: and for the third time to be burnt. But if the cause exceeded twentie crownes, and so vnto the summe of fise hundred, that then he should for the first time haue his hand cut off, and for the second time be burnt. But if so be that the matter exceeded fise hundred crownes, that then the judge for the first time might deale with him according to his discretion, but that for the second offence the forger should be burnt. Wherein both the Geometricall & Arithmeticall proportion of iustice are in some sort mixt, as in the measure and proportioning of the fine: but without any regard of sexe, age, or condition, which it befeemed a lawmaker especially to haue marked. The law of God (of all other lawes the best) commaundeth the man conuict of false witnesse bearing, to endure so much losse himselfe, as he would haue done hurt vnto the other: as if he would by his false witnesse take from another man an hundred crownes, hee should bee forced himselfe to pay the selfe same summe: or if hee went about by his false testimonie to take away another mans life; that he himselfe should therefore loose his owne life: as for the rest they were referred vnto the conscience of the judges. Neither is it enough for this equalitie of punishment to aunswere as did *Draco* the Athenian lawgiuer, who being asked, Why he appointed death as well for stealing of an apple, as for killing of ones father: aunswered, That he would haue appointed a more grievous punishment for killing of a mans father, if he had knowne any punishment worse than death. But *Lycurgus* left all kind of punishment, yea and that concerned euery man else as well in publike as in priuat iudgements, vnto the discretion of the magistrats: whom he doubted not to excell in all fidelitie and integritie, so long as they should keepe his lawes and customes: but yet haply fearing that in restraining of the magistrats power vnto the

All lawes carrying with them penalties certaine, which may not by the judge or magistrat be in some sort moderated or aggrauated, to be vniust.

The false witnesse, how he is by the law of God to be punished.

strait bonds of lawes and penalties, should so fall into such absurdities and difficulties of F
iudgements, as we haue before spoke of: and wherewith they are in Popular estates, but especially in Italie, much troubled. By the law of the Venetians hee that shall so strike any man, as that he shall draw blood of him; is therefore to pay twentie five pound: but if he kill him, he is therefore to be hanged. Which law if it might euery where take place, how many men should we find like vnto *Neratus*, who vpon such a price would soundly buffet and bastinado such as they liked not of, as they met them. But how much more wisely did the emperour *Adrian* in like case take order, appointing him that went about to kill a man, although indeed he killed him not, to bee therefore worthy of death: and yet that he which had indeed slaine a man, without any purpose so to haue done, should be therefore acquitted. For that offences are to be weighed G
according to the will and purpose of the offender, and not according to the event of the fact: howbeit that the purpose and endeour is more easily to be punished, than the effect and deed it selfe; and the conceit of a villanie lesse than the villanie it selfe done: wherein all the diuines with the lawyers agree. Howbeit that in truth hee more grieuously offendeth against almighty God, which persuadeth another man to do a villanie, than he which doth it: for that beside the wickednesse first by himselfe conceived, he leaueth also the liuely impresion thereof engrauen as it were in another mans hart: whereas he which of himselfe doth amisse, carried headlong with the force of lust or anger, seemeth scarcely to haue bene willing to haue done it: and hee which hath against her will enforced an honest woman, whome hee could not otherwise persuade, H
yet leaueth her soule and spirit pure and cleane. But iudges doe one way punish and consider of offences, and Philosophers another: they punish such offences and transgressions onely as are sensibly to be scene, and which a man may as it were with his finger touch, and such as trouble the common rest and quiet: but these men (*viz.* the Philosophers) enter euen into the most secret thoughts & cogitations of mens minds: wherein Sir *Thomas Moore*, sometime Chauncellour of England, is also deceiued, who maketh the intent equall to the effect: and the will vnto the deed done.

But if an offence be not onely intended, but effected also, and so the effect ioyned vnto the intent; we must not in the punishing thereof vse Arithmetically proportion of I
iustice: as in the law of Milan, hee that shall without the citie. steale the value of a crowne or more, is therefore to be put to death; but if lesse, the punishment is left vnto the discretion of the iudges: and yet for all that in this realme he is punished with death as a theefe which hath by the high way robbed any man, whether hee had money or none: as I haue indeed seene one hanged for taking but eightene pence from a traueller by the high way. The Roman lawes commaund notable theeues and robbers to be hanged, and so left hanging vpon the gibbet: which then was accounted the most grieuous punishment: but they then by the word *Latro*, vnderstood him whom we call an *Assassin*, or Murtherer, which killeth men vpon the high way: but as for him which but robberth passengers, the law calleth him *Grassatorem*, and willeth him also to be condemned to death, but yet not hanged as the murtherer. Which wee haue here the more precisely set downe, to note the errour of *Accursius* and some other the learned lawyers, who call him also *Latronem*, or a robber, whome the Latines call *Furem*, or a theefe; making them as it were all one: and hauing in part therein giuen occasion for men to punish theeues with more grieuous punishment than haply were meet and conuenient, *viz.* with death.

The like absurditie is seene almost in all the lawes of Italie: as in that of Venice concerning theft, which willeth to put out one of his eies which shal steale any thing worth aboute five pound, vnto ten; and from ten vnto twentie, to put out one of his eyes, and

The wise law of
Adrian the em-
perour.

Offences how
they are to be
weighed and
punished.

Iudges and Phi-
losophers diuer-
ly do consider
offences.

Arithmetically
proportion
not to be
vse in the puni-
shing of offences

The vnreasonable
law of the Vene-
tians for the puni-
shing of theft.

- A to cut off one of his hands : and from twentie vnto thirtie to put out both his eyes, and from thirtie to fortie to loose his eies & an hand : but if he shall steale about the summe of fortie pounds, then to be punished with death. An vnreasonable law truly, not onely for the rigour and hardnesse thereof, and the confused manner of the persons so to be equally punished, but euen in this respect also, that he which hauing the meanes out of a great masse of gold, to steale a thousand pounds, and yet contenteth himselfe with fiftie, shall therefore be punished with death : and hee that breaketh an emptie chest, with an intent to haue taken away a great summe of money if he could, shall yet escape vnpunished. The same punishments almost are also set downe by the law of Parma. Yet hath it oftentimes seemed vnto me a thing right straunge, why some which vse
- B so seuer punishment against theeues, yet punished murders but by fines in money. For we see plainly, that the paine of death is too cruell to reuenge a simple felonie, and yet not sufficient to restraine the same : and yet the punishment of him that doth both rob and kill, to be but like : in which doing he hath more suretie to commit the mutther, as also more hope to conceale the same. So that where the punishment for theft and murder is alike, there it is more safetie to kill a man, than simply to rob or steale. And yet more straunge and absurd are the lawes of the Polonians, the Danes, the Swedens, and Moscouits, and especially the law of *Casimir* the Great, king of Polonia, which for the fine of thirtie crownes, acquiteth one gentleman that hath slaine another : and if he haue maimed him of an arme or of a legge, then to bee acquitted for fiftene crownes.
- C But if a base fellow shall kill a gentleman, the fine is double, and if he shall kill a base or common person, the fine is but ten crownes, without any other corporall punishment, although he had laine in wait to kill him. Which impunitie for the killing of men being suffered, or rather by law allowed, innumerable murders thereof ensued. Howbeit that afterwards the kingdome encreasing in wealth, the penaltie of the law was doubled in the raigne of *Sigismund* the first, and order taken, that the murderer beeing apprehended, should beside the fine be also kept prisoner in the common gaile for a yere and six weekes. But that which was in that law worst of all, and the head of all mischief, was, that after three yeares the offender might prescribe against the murder by him committed, whatsoeuer it were : neither could the lord which had slaine his vassall
- D farmer (whome they call *Kmeton*) be therefore either ciuilly or criminally called into question or sued. For a like edict or law made at Milan (at such time as the *Torresans* held that Seigneurie) whereby it was decreed, That a gentleman might for a certaine fine be acquitted for the killing of a base or common person : the common people therewith enraged, rose vp all in a mutinie, & hauing driuen out the nobilitie possessed themselves of the Seigneurie. As for the author of the law *Napus Tarresan*, he by them cast in prison, there miserably died eaten vp with lice, and that worthily, for hauing therein so much contemned the law of God, which forbiddeth to haue pitie vpon the wilfull murderer, commaunding him to be drawne euen from his sacred alter and put to
- E death : yet leauing vnto the discretion of the magistrat the manner of his execution, according to the greatnesse of the murder committed ; to the end that the equalitie of capitall punishment common to all murderers by Arithmetically proportion of iustice, should so by Geometrical proportion be moderated, hauing respect vnto the circumstances of the place, of the time, and of the persons, which are infinit. For men right well knowe, that he which wilfully killeth a man (as lying in wait for him) is more grievously to be punished ; than he which killeth a man in his rage and choler : and hee which killeth by night, more than he which killeth by day : and he which poysoneth a man, more than he which killeth him with the sword : and the murderer by the high way worse than those : as also he that shall kill a man in a sacred place, more than in a profane :

Equalitie of punishment for vnequall offences, the occasion to haue the greater offences committed.

An vnreasonable law for the punishing of murder.

Hainous offences to deserue more grievous punishments.

prophane : and before his prince, more than in any other place : (which is the onely irremissible case, by the laws of Polonia) & he that shal kill the magistrat executing of his office, more than if he were a priuat man : and he that shall kill his father, more than he which shall kill the magistrat : and he which shall kill his prince, more than all the rest. Of which varietie of cases ariseth an incredible varietie of capitall punishments to bee vpon the offenders inflicted. The same we may say also of such persons as are still vnder the guard and protection of other men, of whome they cannot possibly be aware ; as the pupill of his tutor, the wife of her husband, the sicke patient of his physitian ; the guest of his hoast, betwixt all whome faith is much more required : in which cases the murderers are still more grieuously to be punished. As in like case the breakers of houses, and they which by ladders clime into houses by night, deserue to be more seuerely punished, than such as shall steale in, the doores standing wide open. And therefore in Tartarie and Moscouie the least theft of all is punished with death : for that there are but few townes and houses for them to keepe themselves and their goods in. And in the West Indies, before the comming of the Spaniards, the theefe was still alieue vpon a sharpe stake impaled, for whatsoeuer theft it was. For why, all their gardens and grounds are bounded about but with a thrid, beyond which to passe was accounted a great crime : and yet greater than that it was to breake the thrid ; and that in secret also than openly and in euery mans sight. Howbeit that in other crimes, as whooredome, adulterie, incest, and such other like, the offences publikely committed, are more seuerely to be punished, than such as are in secret done : for that the euill example and scandall thereof, is worse than the offence it selfe. Wherein both the diuines and lawyers all agree.

All these circumstances, with a million of others like of diuers sorts, cannot all after one fashion be cut, or by the selfe same law be iudged, according to the vnequall equalitie of Arithmetical Iustice : neither can they in speciall lawes and articles bee all comprehended, were the volume of the law neuer so great : so as is in Geometrical Iustice requisit, which leaueth all vnto the magistrats discretion, without any law at all. And yet for all that is this Geometrical Iustice lesse vniust than the other, which leaueth nothing vnto the power and authoritie of the judge, more than the examination of the fact, and the numbring of a sort of beanes, as at Athens : or of tables of diuers colours, with letters of absolution or condemnation set vpon them, as at Rome : or of certaine balles and lots, as at Venice : without any power to iudge at all. For why, it is the law, and not the judge, which appointeth the same punishment for all : of which equalitie of iustice ariseth the greatest iniustice, some such being condemned, as deserued much lesse than the penaltie of the law being equal vnto all : and some others againe acquitted, which deserued ten times more : besides that, sometimes also diuers most vnlike crimes some great, some lesse, and some almost none at all, are vnder one law passed, and so with the selfe same paine punished. As by seuen articles of the Salique law, robbers, poisoners, adulterers, burners of houses, and such as haue slaine or sold a natural French man, or haue digged vp the bodie of the dead, are all condemned in the selfe same fine of two hundred shillings. Which law altogether overthroweth the foundation of iustice, grounded especially vpon that, That the punishment should still bee equall vnto the offence done. Which the auntients declared by this word, *ὅτι πᾶσι τοῖς αὐτοῖς*, that is to say, The law of Retribution, or of equall punishment : which first written in the law of God, set downe in the lawes of *Solon*, transcript into the lawes of the Twelue Tables, commaunded by the Pythagorians, practised by the Greeke and Latine cities, and for the antiquitie thereof reuerent ; is yet by *Fauorinus*, *Aristotle*, and many others, without iust cause impugned ; they too grossely taking these words of the law, *A tooth for a tooth*,

Open offences to be openly punished.

Arithmeticalle qualitie in the administration of iustice, and the punishing of offences, the cause of great iniustice.

That the punishment ought to be equall vnto the offence done.

A *a tooth, a hand for a hand, and an eye for an eye.* For who is so simple, as to think, that he which hath maliciously put out his eye which had but one, to suffer the like if but one eye be therefore taken from him also? Wherefore hee is to bee quite deprived of his sight, that is to say, requited with like; which cannot be, but by putting out of both his eyes: except the blind man may otherwise be satisfied. As was decreed by the people of Locris, at the request of one which had but one eye, which his enemy threatned to put out, vpon the penaltie therefore to loose another of his owne. Wherefore then to render like for like, is to make him also starke blind, who had made another man blind. So that to requite like with like, is indeed nothing els, but to punish offences with punishments answerable vnto them: that is to say, great offences with great punishments, meane with meane, and so little offences also lightly: which they also meant, when they said, *A hand for a hand, a tooth for a tooth, and an eye for an eye.* And so the auntient Hebrewes, the best interpretors of God his law, haue vnderstood it, expounded it, and also practised it: as is in their Pandeets to be seene, in the Title of Penalties. Yea *Rabi Kanan* denieth the law of like punishment to haue any where in the cities of the Hebrewes taken place, in such sort, as that he should haue an eye put out, which had put out another mans eye: but the estimation of the eye put out, was vsually by the discretion of the iudges in money valued. For prooffe whereof let it be, that before the law of like punishment, there was a *law, whereby it was ordained, That if two men

C fighting, one of them should hurt another, but not yet vnto death, hee which had done the hurt, should pay the Physitians for the healing thereof. But to what end should he so pay the Physitian, if he which did the hurt were in like sort to be himselfe wounded? It should also thereof folow more absurdly, that many delicat and tender persons, in receiuing of such wounds as he had giuen to others, should thereof themselues die and perish. Besides that also, he which had the harme done him, hauing lost his hand wherewith he should get his liuing; if the others hand were also to be for the same cut off; he so wanting his hand wherewith to get his liuing, might haply so statue. Wherefore such a literall exposition of the law of like punishment, by *Aristotle* and *Fauorin* deuised, is but vaine and deceitfull. But *Aristotle* who so much blameth the law of like punishment, is himselfe in such errours entangled as he sought to eschew. For he saith,

D That in punishing of him which hath deceiued his companion, or committed adultery, we are not to respect whether he were an honest man, or an euill liuer before or not; but to punish the offence with Arithmetical equalitie, or Commutative Iustice, as hee tearmeth it. But what indifferent equalitie shall that be of the same punishment, if it shall by Arithmetical proportion be inflicted vpon persons of qualitie and condition so farre vnlike? Or what Shoemaker is so ignorant or foolish, as to shape one fashioned shoo, or of the same last, to euery mans foot? Creditors also in time equall, but in the summe of their debt vnequall, are of the goods of their broken debtor to bee paid by proportion Geometrical: as if thirtie crownes bee made of the goods of the broken debtor; he of the two creditors to whome there is but an hundred crownes due, shall receiue ten crownes; whereas the other creditor to whome there is two hundred due, shall receiue twentie: who if they were by Arithmetical proportion to be paid, should each of them receiue fiftene. And yet in this case question is but of a meere ciuill particular cause resting in exchange; which in the opinion of *Aristotle*, is alwaies by Arithmetical proportion to be ordered: which is not onely in this case here propounded false, but euen in all other also, wherein question is of that which vnto euery man properly belongeth, as we shall forthwith declare. Yet where *Aristotle* saith in punishing of offences no regard ought to be had, whether the offender were before good or bad: it sufficiently sheweth him to haue had no knowledge of the order and manner of

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How the words of the law, *A tooth for a tooth, a hand for a hand, and an eye for an eye*, are to be vnderstood.

* *Exod. 21.*

Arithmetical proportion of iustice not indifferent in punishing of persons of condition and qualitie farre vnequall.

Arithmetical proportion of iustice not to be admitted euen in meere ciuill causes.

Aristotle impugned for saying, no regard ought to be had, whether the offender were before the offence committed, good or bad.

iudgements, or of iudiciall proceedings. For why, nothing is more diligently enquired after by the judges, than what the former life of the partie accused hath bene. Neither is it any new matter, when as the Persians, long before *Aristotles* time, not only enquired after the whole liues of them which were accused (as yet they still doe) but if their good deserts were greater than their offences, they fully acquitted them also: as *Xenophon* writeth. And for the same cause the theefe taken in the third theft, is almost euery where condemned to die, howbeit that the third theft be much lesse than the first: and so he also which hath the more often offended, is more seuerely to be punished than he which hath more seldome gone astray. Wherein *Aristotle* is againe deceiued, in that he deemeth a stolne thing ought by Arithmetically proportion to bee made euen with particular interest of him from whome it was taken or stolne. Whereas the lawes of *Solon*, the lawes of the Twelue Tables, and the emperours by their lawes, condemne him which hath stolne any thing, to restore the double or the treble, yea and sometime foure fold the worth of the thing stolne, beside the perpetuall infamie thereof ensuing. Yea the law of God willeth, That for an ox stolne, restitution should bee made five fold vnto him from whom he was so stolne: both for that a more profitable beast is not by God giuen vnto man, as also for the necessitie there is, to leaue such beasts oft times in the field: where they roaming vp and downe, haue for their more assurance the greater penaltie set vpon them being stolne: and hereunto some other people haue ioyned corporall punishment, yea euen vnto the paine of death.

Arithmetically Iustice to faile euen in more ciuill causes.

And not to speake of criminall causes onely, but of meere ciuill causes also, one in the selfe same fact gaineth the cause, & in another place looseth the same: one hath interest for his debt, and another hath nothing: and amongst them which shall in the same case haue interest, some one shall pay ten times so much as another: which for that they bee matters common vnto all such as haue any experience in iudiciall causes, there need not many examples; one therefore shall suffice for the manifesting of the matter. A Lapidarie breaketh a diamond which he by couenant should haue enchaufed in a ring; he is bound to pay the price of the stone be it neuer so great, yea although hee therein haue vsed no fraud or deceit, but euen for that onely that he rooke it vpon him to do it as a workeman: whereas yet had he bene a man of another condition or occupation, hee should not haue paid the price of the pretious stone so broken, except hee had before taken the daunger thereof vpon him, or by fraud or deceit broken the stone.

Harmonically Iustice to haue place when question is but of priuat mens right and interest as well as when question is of penalties and fines.

Now all the lawes both auncient and new, with the common course and experience of iudgements, teach vs that Harmonicall proportion of iustice ought as well to take place when question is but of priuat mens right and interest, and so in pure ciuill causes, as well as when question is of penalties and fines: as also that Arithmetically equalitie and proportion is therein most of all vniust. And therefore *Iustinian* the emperor publishing the law concerning vsurie, ordained, That the nobilitie should not take aboue five in the hundred, the marchants eight in the hundred, corporations and colledges ten, and the rest six in the hundred: and particularly that none should exact of the husbandman aboue five in the hundred. Which law let it seeme in *Aristotle* his iudgement vniust, yet doth it carrie a good shew of that Harmonicall Iustice which wee seeke after, tempered of Arithmetically and Geometrically proportion: Arithmetically equalitie being therein obserued amongst the noble men, who are all vnder one article comprised, the great, the meaner, and the least: the marchants in another both rich and poore: and the countrey men in another article, howbeit that they much differ one of them from another: and the rest of the subiects all in another article beeing of diuers qualities and conditions also: And then the Geometrically proportion shewing it selfe betwixt the nobilitie and the marchants, betwixt the marchants and the colledges, and againe

- A againe a certaine of the other subiects compared among themselves, and with their superiours. And this proportion of Harmonicall Iustice is also in some sort kept, and yet cut somewhat short by the law of Orleans, established by *Charles* the ninth at the request of the people: whereby the debtor condemned for money too long detained, is bound to pay after eight in the hundred interest vnto marchants, and vnto other lesse; but vnto husbandmen, persons hired, and all sorts of labourers, the double of the money due: both the chiefe points of which law is now growne out of vse, howbeit that it was with the greatest consent of the courts published. For why, that which concerneth euery priuat mans right and interest, consisteth in matter of fact, & not in matter of law; as *Paulus* the lawyer most wisely answered, which his one reason hath euen
- B by the foot ouerthrowne all the long discourses of all the interpreters, so diuers and so vnlike themselves, concerning euery priuat mans right and interest: all which *Iustinian* the emperour had thought himselfe to haue beene able to haue comprehended vnder one law. And therefore that which toucheth euery priuat mans right and interest how farre it concerneth him, is by our lawes wisely left vnto the discretion of the judges, for that it can no more certainly by positieue law be defined or set downe, than can the great Ocean sea into a small chanell be enclosed or shut vp. But yet the inequality is much greater in the law of Venice, which forbiddeth to take interest either in commodities or in money, about six in the hundred: which although it be a thing rollerable, and is called of the Latines *Usura ciuilis*, or, Ciuill interest: yet is that law not so long agoe
- C made, now againe growne out of vse, and not either publikely or priuatly kept: for that it in euery respect containing Arithmeticall equalitie, regardeth not the most vnlike condition and qualitie of persons.

That which toucheth euery priuat mans right & how farre it concerneth him, is not possible to be set downe in law, but better to be left vnto the discretion of the judge.

- And howbeit that in the paticular contracts and conuentions, and exchange of things, that Arithmeticall proportion of equalitie be best to be liked; yet is it not euen therein alwayes obserued and kept, the very countrey men and labourers, by a certaine naturall reason well deeming, that they ought oftentimes to take lesse for their hier of the poore than of the rich, howbeit that they take as great paines for the one as for the other. So the Surgeon which taketh of the rich man fise hundred crownes to cut him of the stone, haply taketh of the poore porter no more but fise: and yet for all that in effect taketh ten times more of the poore man than of the rich: For the rich man being worth fiftie thousand crownes, so payeth but the hundred part of his goods, whereas the poore man being but worth fiftie crownes, paieth fise, the tenth part of his substance. Whereas if we should exactly keepe the Geometricall or Arithmeticall proportion alone, the patient should die of the stone, and the Surgion for lacke of worke starue: whereas now by keeping the Harmonicall mediocritie, it goeth well with them both, the poore man cured with the rich, and the Surgion so gaining wealth, and the other their health. After which proportion euen the judges themselves haue vsed to esteeme their paines, and therefore to demand their honourable fees: which we see to haue alwayes bene lawfull for them to doe, so that therein they exceed not measure. As
- E I remember it to haue happened vnto a certaine Prouost of Paris, whose name I will easily passe ouer, who for adiudging the lawful possession of a litigious benefice, hauing for his owne fees set downe thirtie crownes, whereas his duetie was but three, and appeale therefore by the partie griued made vnto the higher court, was thither sent for; where he being by *Ranconet* President of the court hardly charged for the wrong by him done: answered, That it was a good fat benefice that he had giuen sentence for: and that forasmuch as he did many such things for poore men without any fee at all, that it was but right and reason that the richer when they came should make him an amends therefore in paying of him deeper fees. Whereunto the President pleasantly

Arithmetical proportion of iustice not alwayes obserued euen in particular contracts and conuentions, wherein it is yet best of all to be liked.

Harmonicall proportion to be vsed by the judges euen in taking of their fees.

said, Him in so doing to serue them as his Taylor did him, who tooke of him twice as much for the making of him a veluet gowne, as he did for making of him one of cloth. So the law of Milan, which appointeth, That the judge may for his fee take the hundred part of the value of the suit, so that hee exceed not two hundred crownes, would seeme vnto *Ranconet* vniust: euery corrupt judge so without any proportion at all, extorting from all men, what he saw good. For that such the suit may be for a slight matter but often crowns, as that therein oftentimes more paines is to be taken by the judge than in a suit often thousand crownes: the marchant so still gaining by the rich, what he looseth by the poore.

Arithmetical proportion most necessarie to be obserued in the whole gouernment of the Commonweale.

Wherefore both in making of lawes, and in deciding of causes, and in the whole gouernment of the Commonweale, we must still so much as possible is, obserue and keepe that Harmonicall proportion, if we will at all maintaine equitie & iustice: whereas otherwise it will be right hard for vs in the adiministration of iustice, not to doe great wrong. As doth the law of inheritance, which adiudgeth all vnto the eldest, whether he be noble or base; of auncient time vsed by *Lycurgus* in the inheritances of the Lacedemonians, and with vs in the countrey of Caux. Lesse vniust, and yet vniust too, is the law which giueth all the noble mans inheritance vnto his eldest son; and an annuitie of the third or of the fift part vnto the younger brethren, for them to haue during their, liues as they doe at Amboise and Aniou; and yet dealing therein more fauourably with the women, who hold that vnto themselues in proprietie, which the younger brethren haue but for tearme of life. Neither is the custome of the Germans much lesse vniust, who hauing abrogated the old law, whereof *Tacitus* maketh mention, diuide the inheritance equally amongst their sonnes, making the eldest and the youngest both equall in the succession of their inheritance, according vnto Arithmeticall proportion, without any difference of persons at all. But how much more vprightly and iustly hath the law of God dealt herein? which following the Harmonicall proportion of iustice, giueth onely vnto the sonnes the land, and vnto the daughters part of the mouables, or money to marry them with; to the end the houses should not by them be dismembred: and amongst the males allotteth two parts vnto the eldest, and to the rest euerie one of them a part: and the father dying without heires male, the same law commaundeth the women to diuide the inheritance indifferently amongst them, and yet to marrie with the next of their house or tribe, that the land might not bee carried out of their stocke and kindred. Wherein Geometticall proportion is to be seene betwixt the eldest and the rest, as also betwixt the males and the females: and Arithmeticall equalitie betwixt the younger brethren, as amongst the daughters also. So when it is said by the law of God, That he which hath deserued to bee chastised or beaten, shall be punished according to the fault by him committed; yet is it by the same law forbidden to giue him aboue fortie stripes. Which law is made according to Harmonicall iustice: For why, it is left vnto the discretion of the judge, after such a proportion, to iudge vnto fortie stripes, according vnto the equalitie of the persons and of the offences committed: Wherein the Arithmeticall equalitie is also seene, in that it is forbidden the magistrat to exceed fortie stripes, the certain number by the law appointed. Wherin he that hath the more offended, and yet hath not deserued death, is no more punished in this respect of fortie stripes, than he which hath lesse offended. Whereof the law yeeldeth this reason, least the partie condemned, lamed with many stripes, should so become vnprofitable both vnto himselfe and the Commonweale. For that it might haue bene objected, That he which more grieuouly offended, was the more grieuouly also to haue bene punished, euen aboue the said number of fortie stripes: howbeit that indeed it is better to stay within a measure, than through too much seueritie to do any

Harmonical proportion of iustice euen by the law of God obserued in the conferring of inheritance, & inflicting of punishment.

A any thing vniustly, which vnto vs is a certaine argument drawne from the law of God, That the true iustice, and the fairest gouernment, is that which is by Harmonicall proportion maintained.

And albeit that the Popular estate more willingly embraceth the equall lawes and Arithmeticall Iustice: and the Aristocratike estate contrariwise loner better the Geometricall proportion of iustice: yet so it is, that both the one and the other are for the preservation of themselves constrained to intermingle with themselves the Harmonicall proportion. Whereas otherwise the Aristocraticall Seignorie excluding the common people farre from all estates, offices, and dignities, not making them in any sort partakers of the spoyle of their enemies, nor of the countries conquered from them; it

The Aristocratique and Popular estates, not to be maintained by Geometricall or Arithmeticall iustice, without a mixture of Harmonicall iustice also.

B cannot be that the estate can so long stand, but that the common people beeing neuer so little moued, or neuer so small occasion presented, shall reuolt, and so change the estate, as I haue by many examples here before declared. And therefore the Venetian Seignorie, which is the most true Aristocratie (if euer there were any) gouerneth it selfe Aristocratically, bestowing the great honours, dignities, benefices, and magistracies, vpon the Venetian gentlemen; and the meaner offices which haue no power belonging vnto them, vpon the common people: following therein the Geometricall proportion of the great to the great, and of the little to the little. And yet to content the common people, the Seignorie hath left vnto them the estate of the Chauncellour, which is one of the most worthy and most honourable places in the citie, and perpetuall also: and

C more than that, the offices of the Secretaries of the estate also, which are places verie honourable. Yea moreouer an iniurie done by a Venetian gentleman vnto the least inhabitant of the citie, is right seuerely corrected and punished: and so a great sweetnesse and libertie of life giuen vnto all, which saoureth more of popular libertie than of Aristocraticall gouernment. And that more is, the creation of their magistrats is made part by choyce, and part by lot: the one proper vnto the Aristocratique gouernment, and the other vnto the Popular estate: so that a man may well say, that the estate of that Seignorie is pure and simply Aristocratique, and yet somewhat gouerned by Proportion Harmonicall, which hath made this Commonweale so faire and flourishing.

The estate of Venice Aristocratique, and the gouernment for most part Harmonicall.

D Now we haue oftentimes said, and must yet againe say (for that many haue vpon this rocke suffered shipwracke) that the estate of a Commonweale may oftentimes be the same with the gouernment thereof, but yet more often quite different from the same. For the estate may be Popular, and yet the gouernment Aristocratique: as in Rome after the kings were driuen out (wee said) the estate of that Commonweale to haue bene Popular, for that then all the soueraigne rights were in the power of the whole people in generall; and yet the manner of the gouernment of that citie and Commonweale to haue bene from the Popular gouernment most farre different. For that the Senators alone enioyed the great benefices, honours, dignities, and places of commaund: all the wayes and entrances thereunto being by the nobilitie holden fast

E stopt vp against the comminalltie, yea and that so straitly, as that it was not lawfull or permitted for any of the common sort to marrie with any of the nobilitie; either for any noble woman to marrie but with some one of the nobilitie, but the noble still marrying with the noble, & the base with such as themselves were: and the chiefe and principall voyces which were giuen in their greatest assemblies of estate, and most regarded; were still taken by their wealth and yeares. So that the estate being then Popular, and the manner of the gouernment Aristocratique, according to Geometricall proportion, the people oftentimes reuolted from the nobilitie: neither was the estate euer quiet from ciuill tumults and seditions, vntill that the common people had by little and little

That the estate of a Commonweale may be of one sort, and yet the manner of gouernment of another.

got to be partakers also in the greatest benefices, honours, offices, and places of command, that were in the Commonweale: and that it was permitted them also to allie themselves in marriage with the nobilitie, as also to haue their voyces as well as they. And so long as this Harmonical gouernment (that is to say intermingled with the Aristocratique and Popular estate) continued, the Senat yet bearing the greater sway, so long that Commonweale flourished both in armes and lawes; but after that the gouernment (through the ambition of the Tribunes) became altogether Popular, and as the heauier weight in a ballance ouerweighed the lighter, all then went to wracke: no otherwise than as when the sweet harmonie of musicke being dissolued, and the harmonickall numbers altered into numbers of proportion altogether equall and like, thereof followeth a most great vnpleasant and foule discord: the like whereof there raised amongst the citisens neuer ceased, vntill that the estate was quite thereby chaunged, and indeed vtterly ouerthrowne. So may wee also iudge of all other Commonweales; neither haue wee thereof any better example than of the popular estates of the Swissers, which the more that they are popularly gouerned, the harder they are to be maintained, as the mountayne Cantons, and the Grisons: whereas the Cantons of Berne, Basil, and Zuricke, which are gouerned more Aristocratically, and yet hold the Harmonickall meane betwixt the Aristocratike & Popular gouernment, are a great deale the more pleasing, and more tractable, and more assured in greatnes, power, arms and lawes.

The Royall estate
Harmonically
gouerned, to be
the fairest, the
happiest, and
most perfect.

Now as the Aristocraticall estate founded vpon Geometrickall proportion, and gouerned also aristocratically, giueth vnto the nobilitie and richer sort the estates and honours: and the Popular estate contrariwise grounded vpon Arithmetickall proportion, and gouerned popularly, equally deuidenth the monies, spoyles, conquests, offices, honours, and preferments vnto all alike, without any difference or respect of the great or of the little, of the noble or of the base and common person: So the royall estate also by a necessarie consequence framed vnto the harmonickall proportion, if it be royally ordered and gouerned, that is to say, Harmonically; there is no doubt but that of all other estates it is the fairest, the happiest, and most perfect. But here I speake not of a lordly monarchie, where the Monarch, though a naturall prince borne, holdeth all his subiects vnderfoot as slaues, disposing of their goods as of his owne: and yet much lesse of a tyrannicall monarchie, where the Monarch being no naturall Lord, abuseth neuertheless the subiects and their goods at his pleasure, as if they were his verie slaues; and yet worse also when he maketh them slaues vnto his owne cruelties. But my speech and meaning is of a lawfull King, whether he be so by election, for his vertue and religion; by voyce chosen, so as was *Numa*; or by diuine lot, as was *Saul*; or that he haue by strong hand and force of armes, as a conquerour got his kingdome, as haue many; or that hee haue it by a lawfull and orderly succession, as haue all (except some few) who with no lesse loue and care fauoureth and defendeth his subiects, than if they were his owne children. And yet such a King may neuertheless if he will, gouerne his kingdome popularly and by equall Arithmetickall proportion, calling all his subiects indifferently without respect of persons vnto all honours and preferments whatsoeuer, without making choyce of their deserts or sufficiencie, whether it be that they be chosen by lot or by order one of them after another: howbeit that there be few or rather no such monarchies indeed. So the King may also gouerne his estate or kingdome Aristocratically, bestowing the honorable estates and charges therein with the distribution of punishmehts and rewards by Geometrickall proportion, making still choyce of the nobilitie of some, and of the riches of others, still reiecting the base poorer sort, and yet without any regard had vnto the deserts or vertues of them whom hee

A Royall estate,
and yet gouerned
Popularly and
according to
Arithmetickall
proportion.

- A** he so preferred; but onely vnto him that is best monyed or most noble. Both which manner of governments, howbeit that they bee euill and blameworthy, yet is this Aristocratique and Geometrical proportion of government much more tollerable and more sure, than is that popular and turbulent government, scarcely any where to bee found, as neerer approaching vnto the sweet Harmonicall government. For it may be, that the king to assure his estate against the insurrection of the base common people, may haue need to strengthen himself with the nobilitie, which come neerer vnto his qualitie and condition, than doth the base artificers and common sort of people, vnto whom he cannot descend, neither with them wel haue any societie at all, if he will in any good sort maintaine the maiestie of his royal estate and soueraigntie, as it seemeth he must of necessitie do, if he shall make them partakers of the most honourable charges of his estate and kingdom. But such an Aristocratique kind of government is also euill and dangerous, not vnto the common people only, but euen vnto the nobilitie & prince also: who may so stil stand in feare of the discontented vulgar sort, which is alwayes farre in number more than is the nobilitie or the rich: and hauing got some seditious leader, and so taking vp of armes, becommeth the stronger part, and so sometimes reuolting from their prince, driueth out the nobilitie, and fortifie themselves against their princes power: as it happened among the Swissers, and in other auntient Commonweales by vs before noted. The reason whereof is euident, for that the common people is not bound by any good accord either with the prince, or with the nobilitie, no more than these three numbers 4, 6, 7: where the first maketh good accord with the second, that is to say, a fift: but the third maketh a discord, the most irkesome and vnpleasant that may bee, marring wholly the sweet consent of the two first, for that it hath not any Harmonicall proportion either vnto the first or vnto the second, neither vnto both together.

A Royall estate governed Aristocratically, and according to Geometrical proportion.

- C** But it may be, and commonly so is, that the prince giueth all the greatest honours and preferments vnto the nobilitie and great lords, and vnto the meaner and baser sort of the people the lesser and meaner offices onely; as to be clearkes, sergeants, notaries, pettie receiuers, and such other meane officers of townes, or of some small iurisdiction. Wherein he shall so keepe the Geometrical proportion, and Aristocratique government. Which manner of government for all that is yet faultie, howbeit that it be more tollerable than the former Popular Arithmetical government, as hauing in it some equall and semblable proportion: For as the office of the Constable is proper vnto a great Lord, so is also the office of a Sergeant vnto a poore base fellow. But forasmuch as there is no sociable bond betwixt the prince and the porter; so also is there not any similitude betwixt the office of the Great Constable and of a Sergeant: no more than there is amongst these foure numbers disposed by proportion Geometrical disiunct, 3, 6, 5, 10: where the two first haue the same reason that the two last haue, and the reason of the first vnto third, is that of the second vnto the fourth: yet the reason of the second vnto the third is discordant and different from the others, and so disioyneth the extreames, which so maketh an absurd and foolish discord. And so also are the orders of citisens and subiects, disioyned one of them from another, so that no fast or sure band can bee found amongst them. For that the nobilitie thinketh it an indignitie for them to bee busied with the small offices of the comminaltie: and the common people againe take it in euill part themselves to be excluded from the greatest honours of the nobilitie. As in Rome it was not otherwise lawfull for any of the nobility, whom they called *Patricij*, to sue for the Tribuneship, but that first he must renounce his nobilitie, & become a commoner: for as then the Consulship belonged

Geometrical proportion in distributing of offices, not good.

only vnto the nobilitie, and the Tribuneship vnto the comminalltie. Which power E
 once granted vnto the people, they forthwith let their weapons fall, and all the sedition
 & tumults before common betwixt them and the nobilitie ceased: For why, the com-
 mon sort thought themselves now equall with the best, wherein the welfare of that citie
 consisted: whereas otherwise the force of the furious multitude could by no violence
 haue bin withstood. For what the proportion was of the Consulship vnto the Tribune-
 ship, the same the proportion was of one of the nobilitie vnto a commoner: & againe,
 the same respect was of a noble man vnto the Consulship, that was of a commoner vn-
 to the Tribuneship, in Geometrical similitude. But forasmuch as it was not lawfull
 neither for a noble man to obtaine the Tribuneship, neither for a commoner to enjoy
 the Consulship, the people was disioyned from the nobilitie, and a perpetuall discord G
 betwixt the Consuls and the Tribunes still troubled the citie: in such sort, as in these
 numbers thus placed is to be seene, 2, 4, 9, 18: wherein are found two eights by Geo-
 metrical proportion disiunct, and which yet mixed together make the most hard dis-
 cord that is possible, by reason of the disproportion which is betwixt 4 and 9, which is
 intollerable, and marreth all the harmonie. So was there also almost a perpetuall dis-
 cord betwixt the nobilitie & the people, vntill that the Consulship, the Censorship, the
 Pretorship, and the chiefe Benefices, excepting some few, were communicated vnto
 the people also. Whereas might it with the same moderation haue bene lawfull for
 the nobilitie to haue obtained the Tribuneship also, yet so as that the number of the
 commoners in that societie of the Tribunes might yet still haue bene the greater, and H
 the nobles not enforced to renounce their nobilitie: no doubt but that the estate so Har-
 monically gouerned had bene much the more assured, better ordered, and of much
 longer continuance than it was, by reason of the sweet agreement of the citisens among
 themselves, and that Harmonicall mixture of the offices and places of authoritie and
 commaund in the estate and Commonweale: as in these foure numbers by Harmoni-
 call proportion conioyned, is plainly to be seene, 4, 6, 8, 12: where the proportion of
 the first number vnto the second, and of the third vnto the fourth, is a *Diapente*, or a fift:
 and againe the proportion of the first vnto the third, and of the second vnto the fourth,
 is a *Diapason*, or an eight: and the proportion of the second vnto the third, a *Diatessa-*
ron, or a fourth: which with a continuall proportion ioyning the first with the last, and I
 the middle to both, and so indeed all to all, bringeth forth a most sweet & pleasant har-
 monie. But it was so farre off, that gentlemen of auntient houses were in Rome recei-
 ued into the Tribuneship (if they first renounced not their nobilitie, and caused them-
 selves to be adopted by some base commoner) as it was for the base commoners to
 aspire vnto the Consulship: which they neuer did, except they had before obtained the
 greatest honours of the field, as did *Marius*; or else by their eloquence, as did *Cicero*;
 or by both together, as did *Cato* the Censor. Which yet was a matter of such difficul-
 tie, as that *Cicero* boasteth of himselfe vnto the people, That hee was the first new man
 (now they then called him a new man, who the first of his house and familie had ob-
 tained honours) who of them of his ranke had obtained to be Consul: and that the
 people vnder his conduct had cut in sunder and for euer after laid open for vertue that
 honourable place, which the nobilitie had before with strong garrisons holden, and
 by all meanes shut vp. So that it ought not to seeme strange if the Commonweale were
 then troubled with the seditions of the people, when as in such a multitude of the com-
 mon sort, so few of them euen in *Cicero* his time aspired vnto those so great honours,
 the nobilitie of great and auntient houses commonly still enjoying of them.

Wherefore it becommeth a good gouernor in a Popular or Aristocratique estate,
 and especially a wise king in his kingdome, to vse Harmonicall proportion in the go-
 uernment

The reasons why
 the Consuls and
 Tribunes were
 alwayes at discord
 in Rome.

The Royal estate
 gouerned Harmo-
 nically, the fairest
 and most perfect.

A uernment thereof, sweetly intermingling the nobilitie with the comminalltie, the rich with the poore; & yet neuerthelesse with such discretion, as that the nobilitie still haue a certaine preheminance aboue the base comminalltie. For why, it is good reason that the gentleman excelling in deeds of armes and martiall prowesse, or in the knowledge of the law, as wel as the base common person, should in the administration of iustice, or in the manning of the wars, be preferred before him. As also that the rich in all other respects equall vnto the poore, should be preferred vnto such places and estates as haue more honour than profit: and the poore man contrariwise to enioy those offices and roomes which haue more profit than honour: both of them so resting reasonably contented, he which is rich enough seeking but after honour, and the poore man after his profit. For which cause and consideration, the wise Roman Proconsull *Titus Plaminus* taking order for the Thessalian Commonweale, lest the gouernment and soueraigntie of the townes and cities by him conquered, vnto them of the richer sort and of best abilitie: wisely deeming, that they would be more carefull for the preservation and keeping of them, than would the poore, who hauing not much to loose, had no great interest therein. Now if two or three magistrats were to bee chosen, it were better to ioyne a noble man with a commoner, a rich man with a poore, a young man with an old; than two noblemen, or two rich men, or two poore men, or two young men together; who oftentimes fall out into quarrels betwixt themselves, and so hinder one another in their charges: as commonly it happeneth betwixt equals. Besides that, of such a coniunction of magistrats of diuers state and condition (as wee now speake of) should arise this great profit, That euery one of such magistrats would seeke to maintaine the prerogatiue & right of them of their owne estate and such as themselves were: As in our soueraigne courts, and in other corporations and societies also, by our customes composed of men of all sorts, we see iustice and right to bee commonly better, and more vprightly vnto euery man administred, than if they wholly consisted of noble men, or of commoners, or of clergie men, or of any one estate alone.

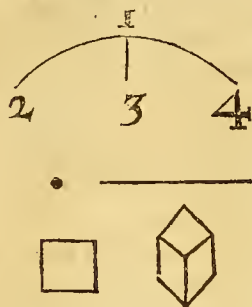
Iustice better administred by magistrats of diuers sort & condition, than by men all of one estate and degree.

But now in ciuill societies there is no meane better to bind and combine the little ones with the great, the base with the noble, the poore with the rich, than by communicating of the offices, estates, dignities, and preferments, vnto all men, as well the base as the noble, according vnto euery mans vertues and deserts, as wee haue before declared. Which deserts both now are & euer were of most diuers sort & condition: so that he which would stil giue the honorable charges and preferments of the estate vnto vertuous and religious men onely, should vutterly ouerthrow the whole Commonweale: for that such vertuous and deuout men are alwayes in number much fewer than the euill and wicked, by whome they might easily be overcome and thrust out of their gouernment. Whereas in coupling the poore vertuous men (as I haue said) sometime with the noble, and sometime with the rich, howbeit that they were deuoid of vertue; yet so neuerthelesse they should feelee themselves honoured, in being so ioined with the vertuous, mounted vnto honourable place. In which doing all the nobilitie shall on the one side reioyce to see euen bare nobilitie respected, and a place for it left in the Commonweale, together with men excelling in vertue and knowledge: and all the baser sort of the common people on the other side rauished with an incredible pleasure to feelee themselves all honoured, as indeed they are, when they shall see a poore Physicians sonne Chauncellour of a great kingdome; or a poore souldior to become at length Great Constable: as was seene in the person of *Michael D' l' Hospitall*, and *Bertrand Guescheling*: who both of them, with many others, for their noble vertues were worthily exalted euen vnto the highest degrees of honours. But all the subiects griene and take it in euill part, when as men neither for the honour of their house, nor for any their

Diuers sorts of deserts, and that vertuous men onely are not to be preferred vnto the honourable places and charges of the Commonweale.

Vnworthy persons not alwayes to be excluded from certaine offices and places of command in the Cōmonweale.

their vertues noble, but rather for their loole and lewd liues infamous, shall be placed in the highest degree of honour and command: not for that I thinke it necessarie the vnworthy citisens or subiects to be altogether kept from all offices & places of command (a thing which can in no wise be) but that euen they such vnworthy persons may bee sometimes capable also of certaine offices; provided alwayes that they bee in number but few, that their ignorance or wickednesse may not take any great effect in the estate wherein they are. For we must not onely giue the purse vnto the trustiest, armes vnto the most valiant, iudgement vnto the most vpriight, censure vnto the most entire, labor vnto the strongest, gouernment vnto wisest, priesthood vnto the deuoutest, as Geometricall Iustice requireth (howbeit that it were impossible so to doe, for the scarcetie of good and vertuous men:) but we must also, to make an harmonic of one of them with another, mingle them which haue wherewith in some sort to supply that which wanteth in the other. For otherwise there shall be no more harmonie than if one should separat the concords of musique which are in themselues good, but yet would make no good consent if they were not bound together: for that the default of the one is supplied by the other. In which doing, the wise prince shall set his subiects in a most sweet quiet, bound together with an indissoluble bond one of them vnto another, together with himselfe, and the Commonweale. As is in the foure first numbers to bee seene: which God hath in Harmonicall proportion disposed to show vnto vs, that the Royal estate is Harmonicall, and also to be Harmonically gouerned. For two to three maketh a fift; three to foure, a fourth; two to foure, an eight: and againe afterwards, one to two, maketh an eight; one to three, a twelfth, holding the fift and the eight; & one to foure, a double eight, or *Diapason*: which containeth the whole ground and compasse of all tunes and concords of musicke, beyond which he which will passe vnto five, shall in so doing marre the harmonie, and make an intollerable discord. So may one say of a point to a line, as also of the plaine superficies, and of the solid bodie also of any thing. Now the soueraigne prince is exalted aboue all his subiects, and exempt out of the ranke of them: whose maiestie suffereth no more diuision than doth the vnitie it selfe, which is not set nor accounted among the numbers, howbeit that they all from it take both their force and power. But the three estates stand orderly disposed as they are, and as they alwayes haue yet beene in euery well ordered Commonweale, *viz.* the Ecclesiasticall order first for the dignitie which it beareth: & the prerogative of the ministerie and function thereof towards God, being yet composed both of noble and of base. Then after them follow the Martiall men, in whose protection all the rest of the subiects in some sort rest: which order and estate is also composed both of the noble and vnnoble. And in the third and last, are set the common people of all sorts and vocations, as schollers, marchants, artificers, and labourers: euerie one of which estates hauing part and interest into the offices and honourable charges of the Commonweale, with great respect and regard still to bee had vnto the merits and deserts, as also vnto the qualitie of the persons, there may therof be formed a pleasant harmonie of all the subiects among themselues; as also of them altogether with their soueraigne prince. Which is also declared, and in some sort figured euen in the nature of man himselfe, being the verie true image of a well ordered Commonweale: and that not in his bodie onely, which still hath but one head, and all the rest of the members aptly fitted thereunto; but euen in his mind also, wherein Vnderstanding holdeth the chiefe place, Reason the next, the Angrie Power desirous of reuenge, the third,



The order of the three estates in a well ordered Commonweale.

The well ordered Commonweale in some sort figured euen in the nature of man himselfe.

tion than doth the vnitie it selfe, which is not set nor accounted among the numbers, howbeit that they all from it take both their force and power. But the three estates stand orderly disposed as they are, and as they alwayes haue yet beene in euery well ordered Commonweale, *viz.* the Ecclesiasticall order first for the dignitie which it beareth: & the prerogative of the ministerie and function thereof towards God, being yet composed both of noble and of base. Then after them follow the Martiall men, in whose protection all the rest of the subiects in some sort rest: which order and estate is also composed both of the noble and vnnoble. And in the third and last, are set the common people of all sorts and vocations, as schollers, marchants, artificers, and labourers: euerie one of which estates hauing part and interest into the offices and honourable charges of the Commonweale, with great respect and regard still to bee had vnto the merits and deserts, as also vnto the qualitie of the persons, there may therof be formed a pleasant harmonie of all the subiects among themselues; as also of them altogether with their soueraigne prince. Which is also declared, and in some sort figured euen in the nature of man himselfe, being the verie true image of a well ordered Commonweale: and that not in his bodie onely, which still hath but one head, and all the rest of the members aptly fitted thereunto; but euen in his mind also, wherein Vnderstanding holdeth the chiefe place, Reason the next, the Angrie Power desirous of reuenge, the third,

A third, and brutish lust and desire the last. Whereof the mind or vnderstanding like vnto the vnitie in numbers indiuisible, pure, and simple, is of it selfe free from all concretion, and from all the other faculties of the soule apart separated and diuided: the angry power with desire of reuenge resting in the heart, representeth the souldiors and other martiall men: and sensuall lust and desire resting in the liuer vnder the midriffe, berokeneth the common people. And as from the liuer (the fountaine of bloud) the other members are all nourished, so husbandmen, marchants, and artificers doe giue vnto the rest of the subiects nourishment. And as many men for lacke of vnderstanding liue like beast, smoued with that only which is present and before them, without mounting any higher vnto the contemplation of things intellectuall and diuine, whom the sacred scriptures call also beasts: euen so also the Aristocratique and popular Commonweales without vnderstanding, that is to say, without a prince, are in some sort able to maintaine and defend themselves, though not long: being indeed about to become much more happie if they had a soueraigne prince, which with his authoritie and power might (as doth the vnderstanding) reconcile all the parts, and so vnite and bind them fast in happinesse together: for why no gouernment is more happie or blessed, than where the reasonable soule of man is gouerned by wisedome, anger and desire of reuenge by true valour, lust by temperance; and that vnderstanding bearing the rule, and as it were holding the reines, guideth the chariot, whereafter all the rest follow whether soeuer he will lead them: for so all honestie, all the lustre of vertue and dutie shall enery where flourish. But when the power and commaund of vnderstanding beate[n] downe and quite ouerthrowne, anger as a mutinous and vnruely souldior, and intemperat lust as a turbulent and seditious people, shall take vpon them the gouernement, and so inuading the state, shake wisedome and vnderstanding, and thrust it out of place: enery Commonweale must needs euen like the powers of the soule and mind needs so fall into all manner of reproch and filthinesse of vices. So that nothing is more like vnto a well gouerned Commonweale, than that most faire and fit comparison of the soule and the powers thereof, there being therein so established a most Harmonicall proportion of iustice, which giueth to euerie part of the soule that which vnto it of right belongeth. The like whereof we may say also of the three estates of a Commonweale, guided by Wisedome, Fortitude, & Temperance: which three morall vertues vnited together, and with their king, that is to say, the intellectuall and contemplatiue vertue, there is thereby established a most faire and Harmonicall forme of a Commonweale. For that as of vnitie dependeth the vnion of all numbers, which haue no power but from it: so also is one soueraigne prince in euerie Commonweale necessarie, from the power of whome all others orderly depend. But as there cannot bee good musicke wherein there is not some discord, which must of necessitie be intermingled to giue the better grace vnto the Harmonie (which the good Musitian doth, to make the consent of the fourth, the fift, and the eight, the more pleasing and tunable, some discord running before which may make the consent much more sweet vnto the eare; as do also cunning cookes, who to giue the better tast vnto their good meates, serue in therewith certaine dishes of sharpe and vsauerie sauces; and as the cunning painter, to grace his picture, and to gine a better show vnto his brighter colours, still shadoweth the same with blacke, or some other darke colour (for that the nature of all things in the world is such, as to loose their grace, if they tast not sometime of disgrace; and that pleasure alwayes continuing becommeth vsauorie, daungerous and vnpleasant): So also is it necessarie that there should be some fooles amongst wise men, some vnworthy of their charge amongst men of great experience, and some euill and vitious men amongst the good and vertuous, to giue them the greater lustre, and to

Ionas the last, and Psal. 49.

One soueraigne prince alwayes most necessarie in a Commonweale

That the bad are to be mingled with the good, for the making of a good Harmonicall proportion in a Commonweale

make

make the difference knowne (euen by the pointing of the finger, and the sight of the eye) betwixt vertue and vice, knowledge and ignorance. For when fools, vitious, and wicked men, are contemned & despised, then the wise, vertuous, and good men, receive the true reward and guerdon for their vertue, which is honour. And it seemeth the ancient Greekes in their fables, to haue aptly shadowed forth vnto vs that which wee haue spoken of these three kinds of Iustice, giuing vnto *Themis* three daughters, *viz.* *ἐνομιαν*, *ἐπιείκειαν*, *εἰρήνην*: that is to say, *Upright Law*, *Equitie*, and *Peace*: which are referred vnto the three formes of Iustice, Arithmetically, Geometrically, and Harmonically: howbeit that peace which shadoweth forth Harmonicall Iustice, is the onely scope and summe of all the lawes and iudgements, as also of the true Royall gouernment: so as is Harmonicall Iustice the end both of Arithmetically and Geometricall gouernment also.

The three daughters of *Themis* to represent the three proportions of Iustice.

The world to be made and gouerned also by Harmonically, and not by Geometricall proportion, contrarie to the opinion of *Plato*.

But these things thus declared, it remaineth for vs to know (as the chiefe point of this our present discourse) Whether it be true that *Plato* saith, God to gouerne this world by Geometricall proportion: For that he hath taken it as a ground, to shew that a well ordered Commonweale ought (to the imitation of the world) to be gouerned by Geometricall Iustice: Which I haue shewed to be contrarie, by the nature of the vnitie, Harmonically referred vnto the three first numbers: as also by the intellectuall power, compared vnto the three other powers of the soule: and by a point compared to a line, a plaine superficies, or other solid bodie. But let vs goe farther, for if *Plato* had looked neerer into the wonderfull Fabrike of the world, hee should haue marked that which hee forgot in his *Timæo*, *viz.* The Great God of nature to haue Harmonically composed this world of Matter and Forme, of which the one is maintained by the helpe of the other, and that by the proportion of equalitie and similitude combined & bound together. And for that the Matter was to no vse without the Forme, and that the forme could haue no being without the matter, neither in the whole vniuersall, neither yet in the parts thereof: he made the world equall to the one, and semblable to the other: equall vnto the matter whereof it is made, for that it comprehendeth all: and semblable or like vnto the forme, in such sort as is the Harmonicall proportion composed of the Arithmetically and Geometricall proportions equall to the one, and semblable to the other, being one of them separate from another vnperfect.



And as the Pythagorians sacrificed the great sacrifice Hecatombe, not for the sustendure of the right angle, which dependeth of the two sides (as many thinke) but for having in the selfesame figure found the equalitie and similitude of two other figures, the third figure being equall vnto the first, and like vnto the second: so do we also owe the immortal euerlasting sacrifice of praise and thanksgiuing vnto almightie God, for that he hath by an admirable bond of Harmonie, bound

together this world of matter and forme, equall to the one, and like to the other: equall indeed to the matter, so that there is nothing thereof wanting, or yet superfluous: but yet like vnto that euerlasting forme, which he the most wise workeman had in his mind before conceived, before he made that so great and excellent a worke: as we read in the holy * Scripture.

Gen. 1.

And as for the motion or mouing of the celestially Spheres, wee see that God hath made one motion equall, which is the swift motion of the superiour Sphere: and another vnequall, which is the motion of the Planets (contrarie vnto the former:) and the third the motion of Trepidation, which containeth and bindeth together both the one and the other. And so if we should enter into the particular nature of other worldly

- A** ly creatures also, we should find a perpetuall Harmonicall bond, which vniteth the extreames by indissoluble meanes, taking yet part both of the one and of the other. Which coherence is neither agreeable vnto Arithmetically nor Geometrically, but euen proper vnto the Harmonicall proportion onely: wherein the sweetnesse of the consent consisteth in tunes aptly mixt together: and the harsh discord, when as the tunes are such as cannot fitly be mingled together. So we see the earth and stones to be as it were ioyned together by clay and chaulke, as in meane betwixt both: and so betwixt the stones and mettals, the Marcasites, the Calamites, and other diuers kinds of minerall stones to grow: So stones and plants also to be ioyned together by diuers kinds of Corall, which are as it were stonie plants, yet hauing in them life, and growing vppon roots: Betwixt plants and liuing creatures, the Zoophytes, or Plantbeasts, which haue feeling and motion, but yet take life by the roots whereby they grow. And againe betwixt the creatures which liue by land onely, and those which liue by water onely, are those which they call *Amphibia*, or creatures liuing by land and water both, as doth the Beaver, the Otter, the Tortoise, and such like: as betwixt the fishes and the fowls are a certaine kind of flying fishes: So betwixt men and beasts, are to bee seene Apes and Munkies; except we shall with *Plato* agree, who placed a woman in the middle betwixt a man and a beast. And so betwixt beasts and angels God hath placed man, who is in part mortall, and in part immortall: binding also this elementarie world, with the heauens or the celestially world, by the æthereall region. And as a discord sometimes (as we
- C** said) giueth grace vnto the sweetest Harmonie: so God also hath here in this world mingled the bad with the good, and placed vertues in the midst of vices, bringing forth also certaine monsters in nature, and suffering the eclipses and defects of the celestially lights: as also the Surd reasons in Geometricall demonstrations: to the end that thereof might arise the greater good, and that by such meanes the power and beautie of Gods workes might be the better knowne, which might otherwise haue beene hid and folded vp in most thicke and obscure darkenesse. And therefore it is, that God hauing hardened *Pharaoes* heart, which the wise Hebrewes expound to be the enemy of God and Nature, saith thus vnto him, *Excitauit ego te ut demonstrarem in te ipso potentie mee vim ac decus, ut toto terrarum orbe gesta mea omnium una commemoratione predicarentur*, I haue stirred thee vp (saith he) that I might in thee declare the force & glorie of my power, that so all my acts might with one report of all men bee praised throughout the whole world. And these things truly belong vnto the most true report of the things then done in *Ægypt*: but there lieth hidden therein a more diuine meaning than that, concerning the great *Pharao*, the worker and father of all mischief, whome the sacred Scriptures declare by the name of *Leuiathan*: and yet in this all the diuines agree, this of all others the greatest enemy of God and man, to bee still by the becke, word, and power of God, kept in and restrained: and all the force and power of those mischiefes and euils by him and his wrought (which we so much both fret and marnell at, and without which the power of the good should neither bee, neither yet be at all perceiued) to be shut vp within the bounds of this elementarie world: and aboue the same to be nothing but that which is holy and cleane from all filth and wickednesse; in such sort, as that that little staine of euils here shall much more profit than hurt. Whereof *Augustine* speaking, saith well, *Qui Deum immortalem ullum mali dedecus perpeffurum negat, nisi maius bonum consequi certo sciret*, Who denieth that the immortall God would euer suffer any euill or wickednesse to bee done, but that hee most certainly knoweth a greater good to ensue thereof. Wherefore as of Treble and Base voyces is made a most sweet and melodious Harmonie, so also of vices and vertues, of the different qualities of the elements, of the contrarie motions of the cele-
- stiall

The Harmonical bond wherewith the world and the parts thereof are indissolubly bound and vnited together.

stiall Spheres, and of the Sympathies and Antipathies of things, by indissoluble
 meanes bound together, is composed the Harmonie of the whole world, and of all the
 parts thereof: So also a well ordered Commonweale is composed of good and bad,
 of the rich and of the poore, of wisemen and of fools, of the strong and of the weake,
 allied by them which are in the meane betwixt both: which so by a wonderfull disa-
 agreeing concord, ioyne the highest with the lowest, and so all to all, yet so as that the
 good are still stronger than the bad; so as hee the most wise workeman of all others,
 and gouernour of the world hath by his eternall law decreed. And as he himselfe be-
 ing of an infinit force and power ruleth ouer the angels, so also the angels ouer men,
 men ouer beasts, the soule ouer the bodie, the man ouer the woman, reason ouer af-
 fection: and so euery good thing commanding ouer that which is worse, with a cer-
 taine combining of powers keepeth all things vnder most right and lawfull commands.
 VWherefore what the vnitie is in numbers, the vnderstanding in the powers of the
 soule, and the center in a circle: so likewise in this world that most mightie king, in vni-
 tie simple, in nature indiuisible, in puritie most holy, exalted farre aboue the Fabrike of
 the celestiaall Spheres, ioyning this elementarie world with the celestiaall and intelligible
 heauens; with a certaine secure care preserveth from distruction this triple world,
 bound together with a most sweet and Harmonicall consent: vnto the imitation
 of whome, euerie good prince which wisheth his Kingdome and
 Commonweale not in safetie onely, but euen good and
 blessed also, is to frame and con-
 forme himselfe.

Almightie God
 in the gouernment
 of this world, to
 be of all worldly
 princes imitated
 in the gouern-
 ment of their e-
 states and king-
 domes.

(***)

Laus Deo uni & trino in secula seculorum. Amen.

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